

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

PUBLISHED BY
THE LEGISLATIVE COUNCIL
of the
GENERAL ASSEMBLY

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This issue contains notices, proposed regulations, emergency regulations, final form regulations, and other documents filed in the Office of the Legislative Council, pursuant to Article 1, Chapter 23, Title 1, Code of Laws of South Carolina, 1976.

SOUTH CAROLINA STATE REGISTER

An official state publication, the *South Carolina State Register* is a temporary update to South Carolina's official compilation of agency regulations--the *South Carolina Code of Regulations*. Changes in regulations, whether by adoption, amendment, repeal or emergency action must be published in the *State Register* pursuant to the provisions of the Administrative Procedures Act. The *State Register* also publishes the Governor's Executive Orders, notices or public hearings and meetings, and other documents issued by state agencies considered to be in the public interest. All documents published in the *State Register* are drafted by state agencies and are published as submitted. Publication of any material in the *State Register* is the official notice of such information.

STYLE AND FORMAT

Documents are arranged within each issue of the *State Register* according to the type of document filed:

Notices are documents considered by the agency to have general public interest.

Notices of Drafting Regulations give interested persons the opportunity to comment during the initial drafting period before regulations are submitted as proposed.

Proposed Regulations are those regulations pending permanent adoption by an agency.

Pending Regulations Submitted to the General Assembly are regulations adopted by the agency pending approval by the General Assembly.

Final Regulations have been permanently adopted by the agency and approved by the General Assembly.

Emergency Regulations have been adopted on an emergency basis by the agency.

Executive Orders are actions issued and taken by the Governor.

2013 PUBLICATION SCHEDULE

Documents will be accepted for filing on any normal business day from 8:30 A.M. until 5:00 P.M. All documents must be submitted in the format prescribed in the *Standards Manual for Drafting and Filing Regulations*.

To be included for publication in the next issue of the *State Register*, documents will be accepted no later than 5:00 P.M. on any closing date. The modification or withdrawal of documents filed for publication must be made **by 5:00 P.M.** on the closing date for that issue.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Submission Deadline	1/11	2/8	3/8	4/12	5/10	6/14	7/12	8/9	9/13	10/11	11/8	12/13
Publishing Date	1/25	2/22	3/22	4/26	5/24	6/28	7/26	8/23	9/27	10/25	11/22	12/27

REPRODUCING OFFICIAL DOCUMENTS

Documents appearing in the *State Register* are prepared and printed at public expense. Media services are encouraged to give wide publicity to documents printed in the *State Register*.

PUBLIC INSPECTION OF DOCUMENTS

Documents filed with the Office of the State Register are available for public inspection during normal office hours, 8:30 A.M. to 5:00 P.M., Monday through Friday. The Office of the State Register is in the Legislative Council, Fourth Floor, Rembert C. Dennis Building, 1000 Assembly Street, in Columbia. Telephone inquiries concerning material in the *State Register* or the *South Carolina Code of Regulations* may be made by calling (803) 212-4500.

ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

To adopt, amend or repeal a regulation, an agency must publish in the *State Register* a Notice of Drafting; a Notice of the Proposed Regulation that contains an estimate of the proposed action's economic impact; and, a notice that gives the public an opportunity to comment on the proposal. If requested by twenty-five persons, a public hearing must be held at least thirty days after the date of publication of the notice in the *State Register*.

After the date of hearing, the regulation must be submitted to the General Assembly for approval. The General Assembly has one hundred twenty days to consider the regulation. If no legislation is introduced to disapprove or enacted to approve before the expiration of the one-hundred-twenty-day review period, the regulation is approved on the one hundred twentieth day and is effective upon publication in the *State Register*.

EMERGENCY REGULATIONS

An emergency regulation may be promulgated by an agency if the agency finds imminent peril to public health, safety or welfare. Emergency regulations are effective upon filing for a ninety-day period. If the original filing began and expired during the legislative interim, the regulation can be renewed once.

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

Regulations promulgated to comply with federal law are exempt from General Assembly review. Following the notice of proposed regulation and hearing, regulations are submitted to the *State Register* and are effective upon publication.

EFFECTIVE DATE OF REGULATIONS

Final Regulations take effect on the date of publication in the *State Register* unless otherwise noted within the text of the regulation.

Emergency Regulations take effect upon filing with the Legislative Council and remain effective for ninety days. If the original ninety-day period begins and expires during legislative interim, the regulation may be refiled for one additional ninety-day period.

SUBSCRIPTIONS

The *South Carolina State Register* is available electronically through the South Carolina Legislature Online website at www.scstatehouse.gov, or in a printed format. Subscriptions run concurrent with the State of South Carolina's fiscal year (July through June). The annual subscription fee for the printed format is \$100.00. Payment must be made by check payable to the Legislative Council. To subscribe, complete the form below and mail with payment.

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In order by General Assembly review expiration date
 The history, status, and full text of these regulations are available on the
 South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regsrch.php>

DOC. No.	RAT. No.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY
4259		SR37-5	South Carolina Immunization Registry	5/08/13	Department of Health and Envir Control
4237		SR37-5	Definitions	5/08/13	LLR-Panel for Dietetics
4311		SR37-5	Sign Requirements for Petitions to Close Road	5/08/13	Department of Transportation
4312		SR37-5	Specific Information Service Signing	5/08/13	Department of Transportation
4303		SR37-5	Buildings and Grounds-Cleaning Program	5/08/13	State Board of Education
4304		SR37-5	Buildings and Grounds. Defined Minimum Program for South Carolina School District	5/08/13	State Board of Education
4305		SR37-5	Building and Grounds-Heating and Lighting	5/08/13	State Board of Education
4306		SR37-5	Buildings and Grounds Management-Fire Prevention	5/08/13	State Board of Education
4307		SR37-5	Facility Specifications	5/08/13	State Board of Education
4310		SR37-5	Project Plans and Specifications	5/08/13	State Board of Education
4226		SR37-5	Duties and Responsibilities of Department; Modular Buildings Construction	5/08/13	Building Codes Council
4243		SR37-5	Board Authorized to Make Investigations and Deny, Suspend or Revoke Licenses	5/08/13	Manufactured Housing Board
4301		SR37-5	Notification and Fees Summary Procedures - Licensing, Adjustment of Dollar Amounts, Filing and Posting Maximum Rate Schedules, and "Lemon Law" Records and Arbitration	5/08/13	Department of Consumer Affairs
4302		SR37-5	Organization, Other Cases - Summary Procedure, Place of Hearings, Case Numbers and Titles, Form and Size of Papers, Filing and Service, Procedure, Contents of Formal Complaint, Answers, Pleadings and Action, Investigative Cases, Hearings, Evidence, and Close of Hearing	5/08/13	Department of Consumer Affairs
4282		SR37-6	Requirements of Licensure for Chiropractors	5/13/13	Board of Chiropractic Examiners
4286		SR37-6	Mediation	5/13/13	Workers' Compensation Commission
4168		SR37-6	Perpetual Care Cemetery Board	5/14/13	Perpetual Care Cemetery Board
4296		SR37-6	Controlled Substances	5/16/13	Department of Health and Envir Control
4231		SR37-6	Requirements of Licensure for Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists	5/17/13	Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists
4252		SR37-6	Residential Specialty Contractors License	5/17/13	Residential Builders Commission
4268		SR37-6	Fees	5/17/13	Board of Funeral Service
4318		SR37-6	Requirements of Licensure for Funeral Service Providers	5/17/13	Board of Funeral Service
4320		SR37-6	International Building Code, International Fire Code, International Fuel Gas Code, and National Electrical Code	5/17/13	LLR-Building Codes Council
4309		SR37-6	Procedures and Standards for Review of Charter School Applications	5/17/13	State Board of Education
4294		SR37-6	Defined Program, Grades 9-12	5/17/13	State Board of Education
4285		SR37-6	Transfers and Withdrawals	5/17/13	State Board of Education
4261		SR37-6	Graduation Requirements	5/17/13	State Board of Education
4321		SR37-6	International Residential Code	5/20/13	LLR-Building Codes Council
4210		SR37-6	Licensed Midwives	5/23/13	Department of Health and Envir Control
4308		SR37-6	Gifted and Talented	5/24/13	State Board of Education
4297		SR37-6	Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	5/25/13	Department of Natural Resources
4327		SR37-6	Code of Ethics, Interpretation of Standards, and Reporting of Disciplinary Actions	5/30/13	LLR-Panel for Dietetics
4314		SR37-6	Agritourism and Tourism-Oriented Directional Signing	5/31/13	Department of Transportation
4328		SR37-6	Requirements of Licensure for Occupational Therapists	6/06/13	Occupational Therapy Board
4317			Unemployment Insurance	1/16/14	Department of Employment and Workforce
4325	R.39	SR37-6	Assisting, Developing, and Evaluating Professional Teaching (ADEPT)	1/26/14	State Board of Education
4334			Officers, Meetings, Applications and Fees, Renewals, and Continuing Education	2/03/14	Board of Architectural Examiners
4335			Administrative Citations and Penalties	2/03/14	Board of Cosmetology
4337			Requirements of Licensure in the Field of Cosmetology (Sanitation and Salons)	2/04/14	Board of Cosmetology
4336			Requirements of Licensure in the Field of Cosmetology (Educational Requirements)	2/05/14	Board of Cosmetology
4313			Child Support Guidelines	2/15/14	Department of Social Services
4329			Cheese & Butter	2/18/14	Department of Agriculture
4342			Nurse Licensure Compact	3/04/14	Board of Nursing

2 REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

4341	R.64 SR37-6	Term and Conditions for the Public's Use of Lakes and Ponds Owned and Leased by the Department of Natural Resources	3/23/14	Department of Natural Resources
4378		Office of State Fire Marshal	4/05/14	LLR-Office of State Fire Marshal
4379		Requirements of Licensure in Real Estate Appraisal	4/05/14	Real Estate Appraisers Board
4345		Adjudication of Misconduct Allegations (Reporting of Misconduct by Law Enforcement Officers)	4/07/14	South Carolina Criminal Justice Academy
4372		Certification	4/07/14	South Carolina Criminal Justice Academy
4374		Application for Issuance or Re-issuance of Certification	4/07/14	South Carolina Criminal Justice Academy
4368		Authority of Director	4/07/14	South Carolina Criminal Justice Academy
4370		Requirement of Good Character (E-911 Operators)	4/07/14	South Carolina Criminal Justice Academy
4376		Assignment of Costs for Agency Level Contested Case Hearings	4/07/14	South Carolina Criminal Justice Academy
4369		Allow E-911 Operators One Year to Attend Training at the Academy	4/07/14	South Carolina Criminal Justice Academy
4344		Adjudication of Misconduct Allegations (Contested Case Hearing Process)	4/07/14	South Carolina Criminal Justice Academy
4347		Law Enforcement Officer and E-911 Officer Training & Certification	4/07/14	South Carolina Criminal Justice Academy
4284		Limited Herbicide Applicators License	4/08/14	Clemson University-State Crop Pest Comm.

Permanently Withdrawn

4288		Standards for Licensing In-Home Care Providers		Department of Health and Envir Control
4290		Seasons, Limits, Methods of Take and Special Use		
		Restrictions on Wildlife Management Areas		Department of Natural Resources
4283		Oral Argument		Workers' Compensation Commission
4264		Duplicate Wall or Pocket Card Licenses; Fees		Auctioneers' Commission
4267		Emergency Licensure		Contractors' Licensing Board
4338		Financial Responsibility		Manufactured Housing Board

COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 3

In order by General Assembly review expiration date
 The history, status, and full text of these regulations are available on the
 South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>

DOC. No.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
4259	South Carolina Immunization Registry	Medical, Military, Pub & Mun Affairs	Medical Affairs
4237	Definitions	Medical, Military, Pub & Mun Affairs	Medical Affairs
4311	Sign Requirements for Petitions to Close Road	Education and Public Works	Transportation
4312	Specific Information Service Signing	Education and Public Works	Transportation
4303	Buildings and Grounds-Cleaning Program	Education and Public Works	Education
4304	Buildings and Grounds. Defined Minimum Program for South Carolina School District	Education and Public Works	Education
4305	Building and Grounds-Heating and Lighting	Education and Public Works	Education
4306	Buildings and Grounds Management-Fire Prevention	Education and Public Works	Education
4307	Facility Specifications	Education and Public Works	Education
4310	Project Plans and Specifications	Education and Public Works	Education
4226	Duties and Responsibilities of Department; Modular Buildings Construction	Labor, Commerce and Industry	Labor, Commerce and Industry
4243	Board Authorized to Make Investigations and Deny, Suspend or Revoke Licenses	Labor, Commerce and Industry	Labor, Commerce and Industry
4301	Notification and Fees Summary Procedures - Licensing, Adjustment of Dollar Amounts, Filing and Posting Maximum Rate Schedules, and "Lemon Law" Records and Arbitration	Labor, Commerce and Industry	Banking and Insurance
4302	Organization, Other Cases - Summary Procedure, Place of Hearings, Case Numbers and Titles, Form and Size of Papers, Filing and Service, Procedure, Contents of Formal Complaint, Answers, Pleadings and Action, Investigative Cases, Hearings, Evidence, and Close of Hearing	Labor, Commerce and Industry	Banking and Insurance
4282	Requirements of Licensure for Chiropractors	Medical, Military, Pub & Mun Affairs	Medical Affairs
4286	Mediation	Labor, Commerce and Industry	Judiciary
4168	Perpetual Care Cemetery Board	Labor, Commerce and Industry	Labor, Commerce and Industry
4296	Controlled Substances	Medical, Military, Pub & Mun Affairs	Medical Affairs
4231	Requirements of Licensure for Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4252	Residential Specialty Contractors License	Labor, Commerce and Industry	Labor, Commerce and Industry
4268	Fees	Labor, Commerce and Industry	Labor, Commerce and Industry
4318	Requirements of Licensure for Funeral Service Providers	Labor, Commerce and Industry	Labor, Commerce and Industry
4320	International Building Code, International Fire Code, International Fuel Gas Code, and National Electrical Code	Labor, Commerce and Industry	Labor, Commerce and Industry
4309	Procedures and Standards for Review of Charter School Applications	Education and Public Works	Education
4294	Defined Program, Grades 9-12	Education and Public Works	Education
4285	Transfers and Withdrawals	Education and Public Works	Education
4261	Graduation Requirements	Education and Public Works	Education
4321	International Residential Code	Labor, Commerce and Industry	Labor, Commerce and Industry
4210	Licensed Midwives	Medical, Military, Pub & Mun Affairs	Medical Affairs
4308	Gifted and Talented	Education and Public Works	Education
4297	Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	Agriculture and Natural Resources	Fish, Game and Forestry
4327	Code of Ethics, Interpretation of Standards, and Reporting of Disciplinary Actions	Labor, Commerce and Industry	Labor, Commerce and Industry
4314	Agritourism and Tourism-Oriented Directional Signing	Education and Public Works	Transportation
4328	Requirements of Licensure for Occupational Therapists	Labor, Commerce and Industry	Labor, Commerce and Industry
4317	Unemployment Insurance	Labor, Commerce and Industry	Labor, Commerce and Industry
4325	Assisting, Developing, and Evaluating Professional Teaching (ADEPT)	Education and Public Works	Education
4334	Officers, Meetings, Applications and Fees, Renewals, and Continuing Education	Labor Commerce and Industry	Labor, Commerce and Industry
4335	Administrative Citations and Penalties	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4337	Requirements of Licensure in the Field of Cosmetology (Sanitation and Salons)	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4336	Requirements of Licensure in the Field of Cosmetology (Educational Requirements)	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4313	Child Support Guidelines	Judiciary	Judiciary
4329	Cheese & Butter	Agriculture and Natural Resources	Agriculture and Natural Resources
4342	Nurse Licensure Compact	Medical, Military, Pub & Mun Affairs	Medical Affairs
4341	Term and Conditions for the Public's Use of Lakes and Ponds Owned and Leased by the Department of Natural Resources	Agriculture and Natural Resources	Fish, Game and Forestry
4378	Office of State Fire Marshal	Labor, Commerce and Industry	Labor, Commerce and Industry
4379	Requirements of Licensure in Real Estate Appraisal	Labor, Commerce and Industry	Labor, Commerce and Industry

4 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

4345	Adjudication of Misconduct Allegations (Reporting of Misconduct by Law Enforcement Officers)	Judiciary	Judiciary
4372	Certification	Judiciary	Judiciary
4374	Application for Issuance or Re-issuance of Certification	Judiciary	Judiciary
4368	Authority of Director	Judiciary	Judiciary
4370	Requirement of Good Character (E-911 Operators)	Judiciary	Judiciary
4376	Assignment of Costs for Agency Level Contested Case Hearings	Judiciary	Judiciary
4369	Allow E-911 Operators One Year to Attend Training at the Academy	Judiciary	Judiciary
4344	Adjudication of Misconduct Allegations (Contested Case Hearing Process)	Judiciary	Judiciary
4347	Law Enforcement Officer and E-911 Officer Training & Certification	Judiciary	Judiciary
4284	Limited Herbicide Applicators License	Agriculture and Natural Resources	Agriculture and Natural Resources

Permanently Withdrawn

4288	Standards for Licensing In-Home Care Providers	Medical, Military, Pub & Mun Affairs	Medical Affairs
4290	Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	Agriculture and Natural Resources	Fish, Game and Forestry
4283	Oral Argument	Labor, Commerce and Industry	Judiciary
4264	Duplicate Wall or Pocket Card Licenses; Fees	Labor, Commerce and Industry	Labor, Commerce and Industry
4267	Emergency Licensure	Labor, Commerce and Industry	Labor, Commerce and Industry
4338	Financial Responsibility	Labor, Commerce and Industry	Labor, Commerce and Industry

BUDGET AND CONTROL BOARD**NOTICE OF GENERAL PUBLIC INTEREST**

This notice is published pursuant to Sections 1-23-40(2) and 1-34-30(B).

Section 10-1-180 charges the State Engineer with the enforcement and interpretation of building codes applicable to state buildings. Section 1-34-30 requires that an agency adopt the latest edition of all nationally recognized codes which the agency is charged by statute with enforcing and allows the agency to propose such adoption by publishing a notice in the State Register.

Pursuant to Section 1-34-30(A), the State Engineer published in the March 2013 issue of the State Register, notice of proposed adoption of the below listed codes. Having received no comments within 60 days of publication, the below listed codes are promulgated without amendment, effective July 1, 2013. Consistent with Section 10-1-180, information regarding the adoption of these codes, including the code editions, revision years, and any deletions, will be published in the Manual For Planning and Execution of State Permanent Improvements.

International Building Code (IBC), 2012 Edition
 International Existing Building Code (IEBC), 2012 Edition
 International Fire Code (IFC), 2012 Edition
 International Fuel Gas Code (IFGC), 2012 Edition
 International Mechanical Code (IMC), 2012 Edition
 International Plumbing Code (IPC), 2012 Edition
 International Private Sewage Disposal Code (IPSDC), 2012 Edition
 International Property Maintenance Code (IPMC), 2012 Edition,
 International Residential Code for One and Two Family Dwellings (IRC), 2012 Edition
 International Wildland – Urban Interface Code (Iuwic), 2012 Edition
 International Code Council Performance Code (ICCPC), 2012 Edition
 International Swimming Pool and Spa Code (ISPSC), 2012 Edition
 Standard for Bleachers, Folding and Telescopic Seating, and Grandstands, ICC 300-2012 Edition

The following organization issued the above listed nationally recognized codes:

International Code Council Inc.
 500 New Jersey Avenue, NW, 6th Floor
 Washington, DC 20001

National Electrical Code (NEC) [NFPA-70], 2011 Edition

The following organization issued the above listed nationally recognized code:

National Fire Protection Association
 1 Battery March Park
 Quincy, MA 02169-7471

National Electrical Safety Code, IEEE-C2-2012 Edition

The following organization issued the above listed nationally recognized code:

IEEE Standards Association
 501 Hoes Lane, 3rd Floor
 Piscataway, NJ 08855

6 NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication June 28, 2013, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mrs. Paula J. Bracey, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

Affecting Aiken County

Construction for the addition of sixty (60) nursing home beds that will not participate in the Medicaid (Title XIX) Program for a total of one hundred twenty (120) nursing home beds
Faith Health & Rehab of Aiken, LLC d/b/a Anchor Health & Rehab of Aiken
Aiken, South Carolina
Project Cost: \$7,324,519

Affecting Beaufort County

Establishment of a Pediatric Home Health Agency restricted to serve 18 years or younger in Beaufort County
Lowcountry Nursing Group, LLC d/b/a Interim Healthcare
Beaufort, South Carolina
Project Cost: \$31,254

Affecting Greenville County

Addition of one (1) psychiatric bed and six (6) substance abuse beds for a total licensed bed capacity of thirty-eight (38) psychiatric beds, six (6) substance abuse beds and sixty-eight (68) residential treatment beds
Chestnut Hill Mental Health Center, Inc. d/b/a SpringBrook Behavioral Health System
Traveler's Rest, South Carolina
Project Cost: \$15,000

Construction and renovation for the addition of six (6) substance abuse treatment beds
UHS of Greenville, LLC d/b/a The Carolina Center for Behavioral Health
Greer, South Carolina
Project Cost: \$1,644,204

Construction and renovation for the addition of eight (8) psychiatric beds
UHS of Greenville, LLC d/b/a The Carolina Center for Behavioral Health
Greer, South Carolina
Project Cost: \$1,826,631

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from June 28, 2013. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Mr. Les W. Shelton, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-4200.

Affecting Aiken County

Establishment of a Home Health Agency restricted to serve Aiken County
CareSouth HHA Holdings of South Carolina, LLC
Aiken, South Carolina
Project Cost: \$77,387

Construction for the establishment of a freestanding endoscopy only ambulatory surgical facility (ASF) with one (1) endoscopy room
Center for Colon and Digestive Diseases, LLC
Aiken, South Carolina
Project Cost: \$1,507,017

Affecting Charleston County

Construction for the addition of two (2) operating rooms (Ors)
Bon Secours St. Francis Xavier Hospital
Charleston, South Carolina
Project Cost: \$5,540,417

Renovation to establish an eighteen (18) bed inpatient psychiatric unit on the 1st floor of Trident Medical Center
Trident Medical Center
Charleston, South Carolina
Project Cost: \$6,441,255

Affecting Greenville County

Purchase and installation of the da Vinci Robotic surgical system
Bon Secours St. Francis- Eastside
Greenville, South Carolina
Project Cost: \$2,642,699

Affecting Horry County

Minor renovation for the addition of five (5) substance abuse beds and addition of one (1) psychiatric bed for a total of eighteen (18) substance abuse beds and sixty (60) psychiatric beds
HHC South Carolina, Inc. d/b/a Lighthouse Care Center of Conway
Conway, South Carolina
Project Cost: \$341,407

8 NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

DHEC-Bureau of Land and Waste Management, File # 413416
DuPont Berkeley Warehouse Site

NOTICE OF VOLUNTARY CLEANUP CONTRACT, CONTRIBUTION PROTECTION, AND COMMENT PERIOD

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control (DHEC) intends to enter into a Voluntary Cleanup Contract (VCC) with E.I. DuPont de Nemours and Company (Responsible Party). The VCC provides that the Responsible Party, with DHEC's oversight, will fund and perform future response actions at the DuPont Berkeley Warehouse facility located in Berkeley County, at 1377 Old Highway 52, Moncks Corner, South Carolina, and any surrounding area impacted by the migration of hazardous substances, pollutants, or contaminants (Site).

Future response actions addressed in the VCC include, but may not be limited to, the Responsible Party funding and conducting a Feasibility Study (FS) to evaluate alternatives to clean-up the Site. Further, the Responsible Party will reimburse the Department's past costs of response of \$2,148.66 and the Department's future costs of overseeing the work performed by the Responsible Party and other Department costs of response pursuant to the VCC.

The VCC is subject to a thirty-day public comment period consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9613, and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. § 44-56-200 (as amended). Notice of Contribution Protection and Comment Period will be provided to known potentially responsible parties via email or US mail. The VCC is available:

- (1) On-line at www.scdhec.gov/environment/lwm/publicnotice.htm; or
- (2) By contacting *David Wilkie* at 803-896-4168 or wilkietd@dhec.sc.gov.

Any comments to the proposed VCC must be submitted in writing, postmarked no later than July 29, 2013, and addressed to: David Wilkie, DHEC-BLWM-SARR, 2600 Bull Street, Columbia, SC 29201.

Upon the successful completion of the VCC, the Responsible Party will receive a covenant not to sue for the work done in completing the response actions specifically covered in the Contract and completed in accordance with the approved work plans and reports. Upon execution of the VCC, the Responsible Party shall be deemed to have resolved its liability to the State in an administrative settlement for purposes of, and to the extent authorized under CERCLA, 42 U.S.C. 9613(f)(2) and 9613(f)(3)(B), and under S.C. Code Ann. Section 44-56-200, for the response actions specifically covered in the Contract including the approved work plans and reports. Contribution protection is contingent upon the Department's determination that the Responsible Party has successfully and completely complied with the VCC.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE OF FINAL AMENDMENT TO AIR QUALITY STATE IMPLEMENTATION PLAN

Statutory Authority: S.C. Code Sections 48-1-10 et seq.

South Carolina Air Quality Implementation Plan:

The Department of Health and Environmental Control (Department) proposes to amend the South Carolina Air Quality Implementation Plan, also known as the State Implementation Plan, or SIP. Interested persons are invited to present their views in writing to Mallori K. McAllister; Division of Air Assessment, Innovations, and Regulation; Bureau of Air Quality; 2600 Bull Street, Columbia, SC 29201. Comments may also be submitted via email to mcallimk@dhec.sc.gov. To be considered, comments must be received no later than 5:00 p.m. on July 30, 2013, the close of the comment period. The Department is also providing the public with the opportunity to request a public hearing on the proposed SIP amendment. As such, a public hearing has been scheduled for August 6, 2013, at 1:00 p.m. in the Wallace Room (3141), 2600 Bull Street, Columbia, South Carolina. The public is invited to attend. However, pursuant to 40 CFR 51.102 (2011), if the Department does not receive a request for a public hearing by the close of the comment period (July 30, 2013), the Department will cancel the hearing. If the Department cancels the public hearing, the Department will notify the public at least one week prior to the scheduled hearing on the SIP Public Hearings webpage at: http://www.scdhec.gov/environment/baq/Regulation-SIPManagement/SIP/public_hearings.asp. Interested parties are encouraged to contact Mallori K. McAllister at (803) 898-0167 or mcallimk@dhec.sc.gov for more information, for copies of the State Register notices referenced below, or to determine if the Department has cancelled the public hearing.

Synopsis:

Pursuant to the Standards Manual for Drafting and Filing Regulations (Amended 2011) published by the South Carolina State Register, the Department has published thirteen errata as part of the 2013 Audit of Regulation 61-62 *Air Pollution Control Regulations and Standards* (2013 Audit). This audit was conducted in preparation for the 5-Year Review which is required pursuant to SC Code Ann. Section 1-23-120(J) and 1-23-270(F). The 2013 Audit errata corrections do not create new regulatory requirements. The corrections are nonsubstantive, do not change the legal meaning, and are made pursuant to regulation drafting guidelines to improve the overall quality of the Department's regulations. Where noted, these regulations will include an amendment to the SIP and as corrections made via errata are nonsubstantive, the following thirteen errata have been published as final:

1. R.61-62.1, Section I, (SIP), November 25, 2011, State Register
2. R.61-62.1, Sections II-V, (SIP), January 27, 2012, State Register
3. R.61-62.2, R.61-62.3, and R.61-62.4, (SIP), February 24, 2012, State Register
4. R.61-62.70 and R.61-62.72, March 23, 2012, State Register
5. R.61-62.5, Standard No. 3, April 27, 2012, State Register
6. R.61-62.5, Standard No. 1 and Standard No. 7.1, (SIP), May 25, 2012, State Register
7. R.61-62.96 and R. 61-62.99, (SIP), June 22, 2012, State Register
8. R.61-62.61, July 27, 2012, State Register
9. R.61-62.5, Standard No. 5, (SIP), August 24, 2012, State Register
10. R.61-62.1; R.61-62.2; R.61-62.3; R.61-62.4; R.61-62.5, Standard No. 1, Standard No. 2, Standard No. 3, Standard No. 5.1, and Standard No. 7.1; R.61-62.61; R.61-62.70; R.61-62.72; and R.61-62.96, (SIP), September 28, 2012, State Register

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11. R.61-62.5, Standard No. 3.1, Standard No. 4, and Standard No. 5.2; R.61-62.7; and R.61-62.6, (SIP), December 28, 2012, State Register
12. R.61-62.5, Standard No. 7, (SIP), March 22, 2013, State Register
13. R.61-62.60 and R.61-62.63, May 24, 2013, State Register

This Notice of Final SIP Amendment is being published to fulfill the public notification requirements of Clean Air Act Section 110(a) as nine of the thirteen errata amend South Carolina's SIP. The above mentioned errata changes have been published as final under the South Carolina State Register's Standards Manual for Drafting and Filing Regulations. Barring any comments received or request for public hearing, the final SIP amendment will be considered state effective on the date of publication in the South Carolina State Register. The Department will submit a Notice of Final SIP Amendment to the Environmental Protection Agency (EPA) following the close of the comment period and/or requested public hearing.

STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: 1976 Code Section 59-5-60 (2004)

Notice of Drafting:

The South Carolina Board of Education proposes to repeal Regulation 43-130, Accreditation Standards Filed.

Interested persons may submit their comments in writing to Darlene Prevatt, Team Leader, Office of Federal and State Accountability, Division of Accountability, 1429 Senate Street, Room 501-A, Columbia, South Carolina 29201 or by e-mail to Dprevatt@ed.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on July 29, 2013.

Synopsis:

The regulation will be combined with R.43-300, Accreditation Criteria. References to Palmetto Unified will be removed because a regulation is being promulgated for the institution.

Legislative review of this repeal will be required.

STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: 1976 Code Section 24-25-10 (2007)

Notice of Drafting:

The South Carolina Department of Education proposes to draft a new regulation R.43-229, Defined Program for the Palmetto Unified School District (PUSD).

Interested persons may submit comments to Cathy Jones-Stork, Team Leader, Division of School Effectiveness, Office of Instructional Practices and Evaluations, 1429 Senate Street, Columbia, SC 29201, or by e-mail to cjones@ed.sc.gov. To be considered, comments must be received no later than 5:00 p.m. on July 29, 2013.

Synopsis:

The Palmetto Unified School District No. 1 (PUSD) was established in 1981 by the South Carolina General Assembly, pursuant to S.C. Code Ann. § 24-25-10, to provide educational services to inmates through a statewide school district. PUSD, as a sanctioned school district, is also mandated to comply with the regulations of the South Carolina Board of Education (SBE), unless otherwise noted. The PUSD shall provide a defined educational program that complies with standards prescribed for the Board of Trustees and district operations for secondary grades and adult education programs.

The purpose of the PUSD is to enhance the quality and scope of education services for inmates within the South Carolina Department of Corrections. PUSD's mission is to maximize the academic, vocational, and life skills of student inmates in preparation for their successful return to society.

12 DRAFTING NOTICES

The proposed regulation will address the requirements to successfully operate the PUSD just as any other state identified school district, except where the unique needs and situations of incarcerated students require modifications or exceptions. The requirements of this regulation will help to ensure that the purpose of the PUSD is implemented and supported.

Legislative review of this proposal will be required.

STATE BOARD OF EDUCATION CHAPTER 43

Statutory Authority: 1976 Code Sections 44-29-150 (2002), 44-29-160 (2002), and 44-29-200 (2002)

Notice of Drafting:

The South Carolina Board of Education proposes to repeal Regulation 43-207, Health Examination.

Interested persons may submit their comments in writing to Kim Aydlette, Deputy Superintendent, Division of Operations and Support, 1429 Senate Street, Room 702-A, Columbia, South Carolina 29201 or by e-mail to KAydlette@ed.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on July 29, 2013.

Synopsis:

State statutes address this requirement and the regulation is unnecessary.

Legislative review of this repeal will be required.

STATE BOARD OF EDUCATION CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 (2004), 59-39-160 (2004), 59-63-55 (2004), and 59-67-510 (2004)

Notice of Drafting:

The South Carolina Board of Education proposes to repeal Regulation 43-244, Interscholastic Activities.

Interested persons may submit their comments in writing to Maria Boggs, Education Associate, Office of Federal and State Accountability, Division of Accountability, 1429 Senate Street, Room 505-A, Columbia, South Carolina 29201 or by e-mail to MEboggs@ed.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on July 29, 2013.

Synopsis:

There is no specific state statute that authorizes this regulation.

Legislative review of this repeal will be required.

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60(1) (2004), 59-25-110 (2004), 59-26-10 et seq. (2004 and Supp. 2010), and 20 U.S.C. 6301 et seq. (2001)

Notice of Drafting:

The South Carolina Board of Education proposes to amend Regulation 43-64, Requirements for Certification at the Advanced Level. Interested persons may submit their comments in writing to Charmeka Childs, Deputy Superintendent, Division of School Effectiveness, 1429 Senate Street, Room 606, Columbia, South Carolina 29201 or by e-mail to cchilds@ed.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on July 29, 2013.

Synopsis:

Regulation 43-64 governs the requirements for certification at the advanced level for educators in South Carolina. Amendments to Regulation 43-64 will refine and update the regulation so that the Board will continue to provide appropriately certified educators for South Carolina public schools.

Legislative review of this proposal will be required.

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Sections 44-29-180 (2012) and 59-5-60 (2004)

Notice of Drafting:

The South Carolina Board of Education proposes to amend Regulation 43-272, School Admission. Interested persons may submit their comments in writing to Darlene Prevatt, Team Leader, Office of Federal and State Accountability, 1429 Senate Street, Room 501-A, Columbia, South Carolina 29201 or by e-mail to dprevatt@ed.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on July 29, 2013.

Synopsis:

Regulation 43-272 identifies the immunization and other records needed for students to enter school and to enroll in the different grade levels to be in compliance with the Department of Health and Environmental Control. A revision in the grade level enrollment documents and references to Career and Technical Education Centers will be updated.

Legislative review of this proposal will be required.

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STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Section 59-13-100 (2004)

Notice of Drafting:

The South Carolina Board of Education proposes to repeal Regulation 43-162, School Superintendent Compensation and Benefits/Expenses.

Interested persons may submit their comments in writing to Charmeka Childs, Deputy Superintendent, Division of School Effectiveness, 1429 Senate Street, Room 606, Columbia, South Carolina 29201 or by e-mail to cchilds@ed.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on July 29, 2013.

Synopsis:

There is no specific statutory authority for this regulation and it is an issue of local control.

Legislative review of this repeal will be required.

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 (1990), 59-19-270 (1990), and
20 U.S.C. 6301 et seq. (2002)

Notice of Drafting:

The South Carolina Board of Education proposes to amend Regulation 43-209, Support Personnel/Paraprofessional Personnel Positions, Qualifications and Duties.

Interested persons may submit their comments in writing to Darlene Prevatt, Team Leader, Office of Federal and State Accountability, Division of Accountability, 1429 Senate Street, Room 505-A, Columbia, South Carolina 29201 or by e-mail to dprevatt@ed.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on July 29, 2013.

Synopsis:

Regulation 43-209, Support Personnel/Paraprofessional Personnel Positions, Qualifications and Duties has been in effect since 2003. All regulations pertaining to Title I paraprofessionals will be removed from the regulation because the federal guidelines outline their duties. References to an electronic registry will be removed.

Legislative review of this repeal will be required.

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60(2004), 59-21-510 et seq. (2004 and Supp. 2012), and 59-33-10 et seq. (2004)

Notice of Drafting:

The South Carolina Board of Education proposes to repeal Regulation 43-243.4, Utilization of General Teacher Certification.

Interested persons may submit their comments in writing to Cathy Boshamer, Director, Office of Exceptional Children, 1429 Senate Street, Suite 808, Columbia, SC 29201 or by e-mail to cboshamer@ed.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on July 29, 2013.

Synopsis:

This certificate is no longer issued. Repealing the regulation would allow expanding the type courses that teachers with a generic teaching credential can instruct which would now include students with emotional disabilities receiving special education and related services for the majority of the school day. This will allow schools and districts greater flexibility in the provision of services to their students.

Legislative review of this repeal will be required.

BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS

CHAPTER 49

Statutory Authority: 1976 Code Sections 40-1-70, 40-22-60 and 40-22-130

Notice of Drafting:

The South Carolina Board of Registration for Professional Engineers and Surveyors is amending its Regulation 49-103 to update its fees in conformance with its practice act. Interested persons may submit comments to Lenora Addison-Miles, Administrator, Board of Registration for Professional Engineers and Surveyors, Post Office Box 11329, Columbia, S.C. 29211-1329.

Synopsis:

The South Carolina Board of Registration for Professional Engineers and Surveyors proposes to amend Regulation 49-103 to update its fees in conformance with its practice act.

Legislative review of this amendment is required.

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BOARD OF REGISTRATION FOR FORESTERS

CHAPTER 53

Statutory Authority: 1976 Code Sections 40-1-70 and 48-27-80

Notice of Drafting:

The South Carolina Board of Registration for Foresters is amending its regulations to conform to the current practice of forestry. Interested persons may submit comments to Lenora Addison-Miles, Administrator, Board of Registration for Foresters, Post Office Box 11329, Columbia, S.C. 29211-1329.

Synopsis:

The South Carolina Board of Registration for Foresters proposes to amend its regulations to conform to the current practice of forestry.

Legislative review of this amendment is required.

BOARD OF REGISTRATION FOR GEOLOGISTS

CHAPTER 131

Statutory Authority: 1976 Code Sections 40-1-70 and 40-77-60

Notice of Drafting:

The South Carolina Board of Registration for Geologists is amending its regulations to conform to the current practice of biennial renewal. Interested persons may submit comments to Lenora Addison-Miles, Administrator, South Carolina Board of Registration for Geologists, Post Office Box 11329, Columbia, S.C. 29211-1329.

Synopsis:

The South Carolina Board of Registration for Geologists proposes to amend its regulations to conform to the current practice of biennial renewal.

Legislative review of this amendment is required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 30

Statutory Authority: 1976 Code Sections 48-39-10 et seq.

Notice of Drafting:

The South Carolina Department of Health and Environmental Control proposes to amend R.30-1.D. Definitions, R.30-5 Exceptions, R.30-9 Other Provisions, R.30-13 Specific Project Standards for Beaches and Dunes, R.30-14 Administrative Procedures, R.30-15 Activities Allowed Seaward of the Baseline, R.30-16 Documentation Requirements Before Commencing Activities Between Setback line and Baseline, R.30-18 Beach Restoration Fund, and R.30-21 Beachfront Management Plan, the Department's Coastal regulations related to permitting in the critical areas of the Coastal Zone. Interested persons should submit their views in writing to: Elizabeth von Kolnitz, Office of Ocean and Coastal Resource Management, S.C. Department of Health and Environmental Control, 1362 McMillan Avenue, Suite 400, Charleston, S.C., 29405. To be considered, written comments must be received no later than July 29, 2013, the close of the initial drafting comment period.

Synopsis:

The Department convened a Blue Ribbon Committee on Shoreline Management for the purpose of recommending improvements to the management of South Carolina's coastal shorelines. The Blue Ribbon Committee considered recommendations of the Shoreline Change Advisory Committee and determined improvements related to the management of the state's beachfront jurisdictional area, permits and activities within the beach/dune system and seaward of the baseline, nearshore alterations, and beachfront emergency orders. The proposed modifications to state regulations will be based on the Blue Ribbon Committee's recommendations and will provide clarity and specific standards to be utilized in the management of the state's beaches and dunes, evaluation of beachfront permit applications and notifications, and administrative procedures for issuance of emergency orders within the state's beachfront jurisdiction.

Legislative review is required.

WORKERS' COMPENSATION COMMISSION
CHAPTER 67

Statutory Authority: 1976 Code Sections 42-3-30 and 42-9-301

Notice of Drafting:

The South Carolina Workers' Compensation Commission proposes to amend Regulation 67-1605, Lump Sum Payment. Interested persons may submit written comments to Gary Cannon, Executive Director, South Carolina Workers' Compensation Commission, 1333 Main Street, Post Office Box 1715, Columbia, South Carolina 29202-1715. To be considered, all comments must be received no later than 5:00 p.m., July 25, 2013, the close of the drafting comment period.

Synopsis:

The Commission is proposing to amend Regulation 67-1605 to include the following provisions:

Installments yet to accrue of one-hundred one through five hundred weeks shall be discounted at the yield-to-maturity rate of the Five Year U.S. Treasury Note as published by the United States Treasury Department on the first business day after January 1st each year, but in no case shall the discount rate exceed six percent or be less than two percent;

The Commission shall publish a present value table showing the conversion factors for weeks one-hundred and one through five-hundred on the first business day following January 1st of each year;

The present value table for weeks one-hundred and one through five-hundred published on the first business day following January 1st shall apply to all awards made during the year until a new present value table is published the following year;

The present value of the commutable weeks shall be determined based on the present value tables in effect on the date of the award or settlement.

In the event the Commission makes an award of a partial lump sum in excess of five-hundred weeks in accordance with § 42-9-10(C) and § 42-9-10(D), the discount rate shall be determined on a case by case basis.

Legislative review of this amendment is required.

18 PROPOSED REGULATIONS

Document No. 4383

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-7-110 through 44-7-394

61-15. Certification of Need for Health Facilities and Services

Preamble:

Regulation 61-15 prescribes the process by which healthcare providers obtain authorization from the state before making major capital expenditures, acquiring high cost medical equipment or expanding medical services. The purpose of this regulation is to promote cost containment, prevent unnecessary duplication of health care facilities and services, guide the establishment of health facilities and services which will best serve public needs, and ensure that high quality services are provided in health facilities in this state. The Department is proposing to amend Sections 102 and 601 of R.61-15, Certification of Need for Health Facilities and Services (CON).

A Notice of Drafting for this amendment was published in the *State Register* on April 26, 2013. See the section-by-section discussion of the proposed revisions below and also a fiscal impact statement, a statement of need and reasonableness, and a statement of rationale provided herein.

Section-by-Section Discussion of Proposed Revisions:

SECTION CITATION AND EXPLANATION OF CHANGE

61-15.102.1.c.

Applicability: Increase capital threshold from \$2 million to \$5 million.

61-15.102.1.f.

Applicability: Increase threshold for equipment from \$600,000 to \$1.5 million, to be adjusted annually.

61-15.601.4.

Voidance and Extension Procedures: Allow more flexibility within the required 90 day submission period for CON extensions.

Notice of Public Hearing and Opportunity for Public Comment:

A public hearing on the proposed regulation is scheduled pursuant to S.C. Code Section 1-23-110(A)(3) to be held before the Board of Health and Environmental Control at its regularly-scheduled meeting at 10:00 a.m. on August 8, 2013, if requested in writing by twenty-five persons, by a governmental subdivision or agency, or by an association having not less than twenty-five members. Interested persons may also submit written comments on the proposed regulation. To be considered, requests for public hearing and written comments must be submitted to Melinda Bradshaw at the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201 no later than 5:00 p.m. on July 29, 2013, the close of the public comment period. If a qualifying request for a public hearing is not received in a timely manner, the hearing may, at the Board's discretion, be canceled. Notice of cancellation, or any change in meeting times, will be published in the Board meeting agenda at least 24 hours in advance of the meeting. The Board agenda at the Department of Health and Environmental Control can be accessed on the internet at <http://www.scdhec.gov/administration/board.htm>, or information on the public hearing can be obtained by calling the Clerk of the Board at (803) 898-3350.

If timely requested, the public hearing, as noticed above for August 8, 2013, will be held in Room 3420 (Board Room), Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina. Please use the front entrance to the building facing Bull Street. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less and are asked to provide written copies of their presentation for the record.

Copies of the proposed regulation for comment may be obtained by contacting Melinda Bradshaw at the above address, or by phone at (803) 545-5200, or by email at bradshmw@dhec.sc.gov. Also, an electronic copy of the proposed regulation may be obtained on the Department's Regulatory Information Internet Site in the *DHEC Regulation Development Update* at <http://www.scdhec.gov/regulatory.htm>. (Click on the *Update*, the Certification of Need for Health Facilities and Services category, and scan down for this proposed amendment).

Preliminary Fiscal Impact Statement:

No additional cost will be incurred by the State or its political subdivisions by the implementation of this amendment. Existing staff and resources will be utilized to implement this amendment to the regulation.

Statement of Need and Reasonableness:

This statement was determined by staff analysis pursuant to S.C. Code Section 1-23-115(c)(1)-(3) and (9)-(11), S.C. Code of Laws, 1976, as amended.

DESCRIPTION OF REGULATION: R.61-15, Certification of Need for Health Facilities and Services.

Purpose: The Department is proposing amendment of R.61-15, Certification of Need for Health Facilities and Services, to incorporate recommendations made by the SC DHEC Board at its February 14, 2013 meeting. These recommendations arise from the compilation of suggestions created by the CON Review Panel. Appointed by the DHEC Board in January 2012, the CON Review Panel included 24 members representing a broad range of stakeholder interests. The panel was charged to improve the agency's internal process regarding its CON program through user/provider input.

Legal Authority: S.C. Code Sections 44-7-110 through 44-7-394, 1976, as amended.

Plan for Implementation: The proposed amendments would be incorporated within R.61-15 upon approval of the Board of Health and Environmental Control, the General Assembly, and publication in the State Register. The proposed amendments will be implemented in the same manner in which the existing regulation was implemented. The Department will also provide notice of this amendment in its Regulatory Information website.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

Appointed by the DHEC Board in January 2012, the CON Review Panel included 24 members who represented a broad range of stakeholder interests. The panel was charged with improving the agency's internal process regarding its CON program through user/provider input. These amendments would implement some of the streamlining initiatives as directed by the DHEC Board.

DETERMINATION OF COSTS AND BENEFITS:

See Preliminary Fiscal Impact Statement above for cost to the state and its political subdivisions.

20 PROPOSED REGULATIONS

The regulated community will be impacted by these amendments in the following manner: Streamline the CON process, making it less onerous.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties associated with the proposed amendments to R.61-15.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There is no effect on the environment or public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

There will be no detrimental effect on the environment and public health if the amendments are not implemented.

Statement of Rationale:

The proposed amendments will lessen the regulatory burden on the regulated community by increasing the monetary threshold for capital expenditures by or on behalf of a health care facility from \$2 million to \$5 million, and by raising the existing monetary threshold on equipment used for diagnosis or treatment from \$600,000 to \$1.5 million. Finally, the amendments will allow more flexibility within the required 90 day submission period for requests for CON extensions. These proposed amendments are in keeping with the directive issued by the SC DHEC Board to evaluate and streamline the CON process.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 4282

BOARD OF CHIROPRACTIC EXAMINERS

CHAPTER 25

Statutory Authority: 1976 Code Sections 40-1-70 and 40-9-30

Synopsis:

To satisfy the requirements of licensure for chiropractors, Regulations 25-1 through 25-9 are updated in conformance with the current Chiropractic Examiners Practice Act and pursuant to the Public Hearing Report approved by the Honorable John D. McLeod, South Carolina Administrative Law Court, in the Public Hearing Report on Docket No. 12-ALJ-11-0240-RH on November 19, 2012.

The Notice of Drafting was published in the *State Register* on November 25, 2011.

Instructions:

Replace Regulations 25-1 through 25-9 as printed below.

Text:

25-1. Organization, Administration and Procedure.

Purpose. The Board of Chiropractic ("Board") was created to protect the health, safety and welfare of the public. This purpose is achieved through the establishment of minimum qualifications for entry into the profession and through swift and effective discipline for those practitioners who violate the applicable laws or rules promulgated thereunder.

25-2. Application for Licensure.

A. Application. Any person desiring to be licensed as a chiropractor must apply to the Board and provide all information and documentation required by the Board. Applications and accompanying documents will be valid for one (1) year from the initial application date. After one (1) year, a new application with attendant documents and appropriate fees must be submitted. Applicants must be within ninety (90) days of graduation or graduated, and have passed all applicable National Board examinations. Applications must include:

(1) Pre-professional education transcript. A certified copy of the applicant's transcript from an accredited pre-professional college. An applicant's transcript must indicate two years (60 semester hours) toward a degree from a college or university accredited by the Southern Association of Colleges and Schools or an accrediting agency of equal status and recognition.

(2) Chiropractic college transcript. A certified copy of the applicant's transcript from a chiropractic college accredited by or has recognized candidate status with the Council of Chiropractic Education or with the Commission on Accreditation of the Straight Chiropractic Academic Standards Association or meets equivalent standards. Students who are within ninety (90) days of graduation may submit an attested letter from the chiropractic college establishing estimated date of graduation.

(3) National Board of Chiropractic Examiners scores. Applicants must have completed and passed all required parts of the National Board examinations prior to application for the South Carolina examination.

(a) Graduates from Chiropractic College prior to July 1, 1987, must have passed Parts I and II and/or passed an examination approved by the Board, such as the Special Purpose Examination for Chiropractic (SPEC) or Part IV.

(b) Graduates from Chiropractic College on or after July 1, 1987, but before January 1, 1997, must have passed Parts I, II and III and passed a practical examination approved by the Board, such as the Special Purpose Examination for Chiropractic (SPEC) or Part IV.

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(c) Applicants graduating from a Chiropractic College on or after January 1, 1997, must have passed Parts I, II, III, and IV with the National Board of Chiropractic Examiners (NBCE) recommended passing score.

(4) South Carolina Board of Chiropractic Examiners Ethics and Jurisprudence Examination. Applicants shall be tested in South Carolina law and ethics and pass with a score of seventy-five percent (75%) or more. If an applicant fails to achieve a score of seventy-five percent (75%) or more the applicant may retake the examination within one (1) year.

(5) Verification(s) of Licensure. Complete verification of licensure, active or inactive, is required from each state in which the applicant is or has been licensed.

(6) Photographs. Two (2) recent passport-size photographs of the applicant.

(7) Fee schedule.

Licensure fees will be established by the Department in conjunction with the Board and adjudicated in accordance with Sections 40-9-50 and 40-1-50(D).

B. Denial of application. An application may be denied if the applicant has committed any act which indicates that the applicant does not possess the character and fitness to practice chiropractic, including any act that would be grounds for disciplinary action against a licensed chiropractor.

25-3. Licensure by Endorsement.

A license may be granted for applicants who meet the following requirements:

A. Applicant must have practiced for one (1) continuous year immediately preceding application to this Board.

B. Applicants who matriculated after July 1, 1987, must meet all National Board examination requirements as set forth in Section 25-2.

C. Applicants who matriculated prior to July 1, 1987, must:

(1) have passed a state examination substantially equivalent to the National Board examinations or passed National Board Parts I and II;

(2) if National Board examination Parts I and II have not been passed, a Waiver form must be completed and submitted from the state in which the applicant was licensed by examination, to include subjects tested and grades.

D. Verification of licensure from every state where a license has been held, active or inactive, current or expired. Verification must be received directly from the respective state board to the South Carolina Board of Chiropractic Examiners.

E. Applicant must take and pass the South Carolina Ethics and Jurisprudence Examination with a score of 75% or more.

F. Applications for endorsement are valid for one year only, and the application must be completed within one (1) year of the initial application date.

25-4. Volunteer Licensure under Special Circumstances.

A. Volunteer and Special Event Licensure. The board shall issue a volunteer or special event license for one calendar year or a part of a year, renewable annually upon approval by the Board. A volunteer or special event license must limit practice to a specific site(s) and practice setting(s) and purpose. The board must not charge application or licensure fees or other fees in connection with the issuance or renewal of a volunteer or special event license. Requirements for a volunteer or special event license shall be as follows:

(1) satisfactory completion of a volunteer or special event license, including documentation of chiropractic school graduation and practice history;

(2) documentation of specific proposed practice sites and settings and proposed practice purposes, as provided for in subsections B or C;

(3) documentation that applicant has been previously issued an unrestricted license to practice chiropractic in this state or another state of the United States;

(4) documentation that applicant has never been the subject of any disciplinary action in any jurisdiction;

(5) for volunteer licenses, documentation and acknowledgment that the applicant has no expectation of payment or compensation and must not receive any payment or compensation, either direct or indirect or monetary or in-kind, for chiropractic care or any health services rendered.

B. Practice purposes for volunteer licenses.

During the period for which a volunteer license is issued, the following are the practice purposes upon which a volunteer license may be issued and renewed:

(1) Needy and Indigent Care. A chiropractor's practice must be exclusively and totally devoted to providing chiropractic care to the needy and indigent in South Carolina.

(2) State of emergency. A chiropractor's practice must be exclusively and totally devoted to providing chiropractic care to citizens of the State in areas which have been declared by the Governor to be in a state of emergency.

C. Emergency License. This license shall be for chiropractors who wish to devote their expertise exclusively to providing chiropractic care to citizens of the State in areas which have been declared by the Governor's office to be in a state of emergency. It will limit practice to a specific site(s) and practice setting(s). There will be no licensure or other fees associated with this Emergency License. Requirements for the Emergency License shall be as follows:

(1) satisfactory completion of a Volunteer License Application, including documentation of chiropractic school graduation and practice history;

(2) documentation of specific proposed practice location(s); and

(3) documentation that applicant has a current, unrestricted license to practice chiropractic in this state or another state of the United States;

D. Special Event License. A chiropractor's practice must be exclusively and totally devoted to providing chiropractic care while traveling with a team or organization in this State. A chiropractor issued a license pursuant to this section may treat only members of the team or organization with which the chiropractor is associated during the period in which the team or organization is in this State. The special event license must be issued by the Board prior to the event for which the license is required.

25-5. Professional Practices.

A. Lapsed or Expired Licenses.

(1) A chiropractor whose license has been expired for more than twelve (12) months but fewer than three (3) years, may reactivate the license by submitting an Application for Reinstatement, satisfactory evidence of continuing education, if applicable and each year's license fee plus the applicable penalty.

(2) A chiropractor whose license has been expired for three (3) years or longer must complete a new application and take and pass the SPEC examination, or meet requirements in effect at the time of the new application.

B. Continuing Education. As a pre-requisite for biennial renewal of a practitioner's license, the licensee must complete a minimum of thirty-six (36) hours of approved professional continuing education, no more than half of which may be online. Of the thirty-six (36) continuing education hours, two (2) hours are required in rules and regulations of the S.C. Board of Chiropractic Examiners (limited to four (4) hours per renewal period) and two (2) hours in risk management which include, but are not limited to, boundary or public health issues.

(1) Acceptable educational programs or courses are those that are:

(a) presented and/or sponsored by accredited chiropractic colleges;

(b) taught by post-graduate level instructors of an accredited college or school approved by the Board;

or

(c) presented and/or sponsored by other individuals or organizations approved by the Board.

(2) In addition, continuing education may also be granted by:

(a) administering Part IV of the National Board of Chiropractic Examination may count toward twelve (12) hours of continuing education;

(b) further, attendance at Federation of Chiropractic Licensing Boards/National Board of Chiropractic Examiners (FCLB/NBCE) meetings may be accepted as twelve (12) hours of continuing education per meeting;

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(c) teaching a course at an accredited college may provide the number of continuing education hours commensurate with the hours earned by the students taking the course;

(d) out-of-state licensees meeting their home state's continuing education requirements will satisfy the Board's continuing education requirements;

(e) teaching an approved continuing education seminar, which may provide the number of continuing education hours equal to the number of hours taught in the course limited to eighteen (18) hours per renewal period.

(3) Sponsor Requirements. All sponsors seeking approval for educational programs must submit a written request to the Board Administrator at least ninety (90) days prior to the scheduled date of the presentation, be PACE (Providers of Approved Continuing Education)-approved (provided it is within the scope of chiropractic practice), South Carolina Chiropractic Association, Palmetto State Chiropractic Association, or other associations or organizations approved by the Board in its discretion. Non-PACE-approved providers shall:

(a) have a mechanism for the maintenance of records for no fewer than three (3) years;

(b) have a method of monitoring and verifying attendance;

(c) provide each participant adequate documentation of participation in the program to include:

(i) name and license number of participant;

(ii) name and address of the sponsoring individual(s) or organization;

(iii) name of program;

(iv) number of hours completed;

(v) date and location of program;

(vi) authorized signature.

(d) not present sales promotions during the continuing education seminar or presentation. Sales promotions are appropriate by sponsors or instructors outside the seminar or presentation, or outside the room during a seminar or presentation.

(4) Program Approval Requirements. Requests for program approval must include the following information:

(a) name and address of the sponsoring individual(s) or organization;

(b) instructors' name and credentials;

(c) outline of program content;

(d) the number of actual 60-minute hours of instruction;

(e) the method of monitoring and certifying attendance;

(f) location at which the program will be presented;

(g) the dates on which the program will be presented;

(h) course approval is valid for two (2) renewal periods.

(5) Program approval will be based on the following criteria:

(a) The program will enhance the practitioner's knowledge and skill in the practice of chiropractic as defined by state law.

(b) The instructors are sufficiently qualified in the field of instruction either by practical or academic experience or both.

(c) The program will be held in a suitable setting, conducive to learning.

(d) Adequate monitoring or certifying measures are provided.

(6) Practice-building subject matter (administration, finance, etc.) will not be approved for license renewal.

(7) Comprehensive Approval. A comprehensive approval allows the provider or sponsor to submit an application indicating all course offerings for a given calendar year. Requests for a comprehensive approval may be submitted to the Board office at least ninety (90) days prior to the beginning of each year or ninety (90) days prior to the beginning of a scheduled program. Providers and sponsors shall be responsible for renewal approval.

C. Retention and Audit. Licensees must maintain copies of attendance certificates for four (4) years from the last renewal date. The Board may conduct random audits of licensees on an annual or biennial basis to certify compliance with continuing education requirements.

D. Waiver During Period of Temporary Medical Disability. The Board reserves the right to waive continuing education requirements for individual cases involving extraordinary hardship or incapacitating illness. A licensee may be eligible for waiver or extension who, upon written application to the Board and for good cause shown, demonstrates that the applicant is unable to participate in a sufficient number of regular continuing education programs for license renewal.

E. Therapeutic Modalities. Usage of therapeutic modalities is permitted only by those chiropractors who have passed the National Board of Chiropractic Examiners (NBCE). Chiropractors licensed in South Carolina prior to June 1, 1986, are exempt from this examination. Therapeutic modalities are limited to those modalities within the chiropractic scope of practice.

(1) Permitted Machines. The following machines are approved for use in therapeutic modalities:

- (a) high Frequency Diathermy: Shortwave diathermy, Microwave diathermy, Ultrasound;
- (b) low Frequency Direct current: Low voltage galvanism, High voltage galvanism;
- (c) alternating Current: Sine Wave, Faradic, Transcutaneous Stimulation;
- (d) medium Frequency Current: Interferential;
- (e) combination currents: Ultrasound with sine, Ultrasound with high voltage, Sine with galvanism;
- (f) cold laser and intense pulse light (IPL) therapy;
- (g) such other machines as may be approved by the Board, in its discretion.

(2) The following therapy procedures are approved for use in therapeutic modalities:

- (a) heat: hot moist packs, heating pads, infrared, paraffin, ultraviolet;
- (b) cold: cold packs, ice massages, ice therapy;
- (c) hydrotherapy: whirlpool, hubbard tanks;
- (d) nutritional therapies;
- (e) exercise and massage;
- (f) rehabilitation and rehabilitative procedures;
- (g) manipulation under anesthesia.

(3) The following traction therapies are approved for use in therapeutic modalities: cervical, thoracic, lumbar, pelvic, intersegmental.

(4) Use of Diagnostic Equipment and Testing Procedures. A chiropractor may request diagnostic and testing procedures, consistent with all other applicable laws and regulations, and may perform those tests which are consistent with the chiropractic scope of practice as approved by the Board in its discretion.

F. Terms and Definitions.

(1) Accepted terms are Chiropractic Physician, D.C., Chiropractor, Doctor of Chiropractic.

(2) Chiropractors may not refer to themselves as physical therapists or physiotherapists.

G. Licensees who fail to meet the continuing education requirements will be notified in writing of their deficit, ordered to cease practice, and advised to obtain continuing education. Failure of the continuing education audit results in a lapsed license. After the Board is in receipt of the approved continuing education credits, the Board staff will reinstate the license to active status.

The following sanctions will be imposed:

(1) First Offense: Private Reprimand and \$2000 fine and automatic audit for the next two (2) audit periods; or

(2) Second Offense: Hearing scheduled before the Board.

If evidence is received that the licensee continued to practice after an order to cease and desist from practice, the matter will be scheduled for a hearing before the Board, and the licensee will not be permitted to resume practice pending hearing and until further order of the Board.

H. Manipulation Under Anesthesia (MUA)

(1) For purposes of this regulation, Manipulation Under Anesthesia (MUA) means a manipulation of the spinal column and its immediate articulations by a licensed practitioner (DC, MD or DO) of a patient who is under the administration of anesthesia performed by a physician licensed in this state who is Board certified or Board eligible in anesthesiology by the American Board of Medical Specialties or American Osteopathic Association.

(2) Manipulation under anesthesia (MUA) may be performed by a DC in collaboration with an MD or DO, as long as the MUA is performed in accordance with this regulation. MUA shall be performed by two practitioners (doctor of chiropractic, "DC," and a medical physician, "MD," or doctor of osteopathic medicine,

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“DO”) who constitute the collaborative treatment team and have attained their certificates of training in MUA as described in this regulation. The two MUA practitioners must be in addition to the anesthesiologist. One practitioner must be designated primary practitioner; the second practitioner will serve as the first assistant. Practitioners, including MDs and DOs, performing MUA must be appropriately trained through a course of instruction approved by their respective boards.

(3) The practitioners must have proper training demonstrated by successful completion of a postgraduate educational course approved by their respective boards.

(4) The DC must have proper training demonstrated by successful completion of a postgraduate educational course approved by the Board or which has been approved by a Council on Chiropractic Education (CCE) accredited chiropractic college prior to performing the procedure.

(5) MUA must be performed in an appropriately licensed hospital or ambulatory surgical center or office based surgical facility approved by American Association of Ambulatory Surgery Facilities (AAASF); Accreditation Association for Ambulatory Health Care (AAAHC); the Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or the Healthcare Facilities Accreditation Program (HFAP), a division of the American Osteopathic Association; or any other agency approved by the South Carolina Board of Medical Examiners in statute or regulation.

(6) The patient must receive a medical evaluation and clearance prior to undergoing MUA. It is the responsibility of the MD or DO to conduct an appropriate medical evaluation regarding the patient’s ability to undergo the procedure. A physician licensed and Board certified or Board eligible as a medical specialist in anesthesiology must complete an evaluation of the patient’s suitability for undergoing anesthesia in accordance with American Society of Anesthesiologists (ASA) standards of care for Monitored Anesthesia Care (MAC).

(7) It shall be the responsibility of the practitioners (DC, MD or DO) to submit their documentation of appropriate training in MUA to their respective boards in accordance with the established parameters of this regulation.

(8) Patient safety shall be of paramount concern, and shall be regulated by proper training, patients’ selection criteria, medical clearance for anesthesia, and by following the standards and protocols for the performance of MUA.

(9) Failure of a practitioner to follow the standard of care contained in this section while performing MUA shall constitute unprofessional conduct.

25-6. Professional Conduct.

A. Unprofessional Acts. The following acts or activities by a licensee of this Board constitute unprofessional, unethical or illegal conduct and grounds for disciplinary action. The following acts are not to be considered all-inclusive and are subject to revisions and additions necessary to carry out the Board’s purpose of protecting the health, safety and welfare of the public.

(1) Limitation of Practice. Persons licensed by the Board shall be limited to:

- (a) the care and performance of therapeutic or hygienic treatment of patients;
- (b) the x-ray of patients; and
- (c) such other procedures as are generally used in the practice of chiropractic.

(2) Such other procedures as are generally used in the practice of chiropractic shall be limited to:

- (a) the use of diagnostic and therapeutic procedures;
- (b) the adjustment and manipulation of articulations;
- (c) the treatment of inter-segmental disorders for alleviation of related neurological, muscular, and osseous joint complex aberrations.

(3) Patient care shall be conducted with due regard for environmental, hygiene, sanitation, rehabilitation and physiological therapeutic procedures designed to assist in the restoration and maintenance of neurological and osseous integrity.

(4) Diagnostic or therapeutic procedures shall not include the use of:

- (a) drugs;
- (b) surgery;
- (c) cauterization;

- (d) desiccation or coagulation of tissues;
 - (e) rectal examinations;
 - (f) gynecological examinations;
 - (g) obstetrics;
 - (h) catheterization with a needle;
 - (i) injecting of dyes for radiological procedures;
 - (j) lumbar puncture to obtain spinal fluid;
 - (k) treatment of cancer or x-ray therapy.
- (5) Fraud or deceit in applying for a license or in taking an examination.
- (6) Making misleading, deceptive, untrue or fraudulent representations or communications in the practice of chiropractic.
- (7) Unprofessional conduct, gross incompetence, negligence or misconduct in the practice of chiropractic.
- (8) Disobedience to a lawful rule or order of the Board.
- (9) Practicing while license is suspended or lapsed.
- (10) Being convicted of a felony or misdemeanor.
- (11) Having a license to practice chiropractic suspended, revoked or refused or receiving other disciplinary actions by the proper chiropractic licensing authority of another state, territory, possession or country.
- (12) Being unable to practice chiropractic with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material, or as a result of any mental or physical condition. In enforcing this paragraph, the Board shall, upon probable cause, have authority to compel a chiropractor to submit to a mental or physical examination by physicians approved by the Board.
- (13) Knowingly aiding, assisting, procuring or advising any unlicensed person to practice chiropractic contrary to this act or regulations of the Board.
- (14) Committing immoral or unprofessional conduct. Unprofessional conduct shall include any departure from, or failure to conform to, the standards of acceptable and prevailing chiropractic practice. Actual injury to a patient need not be established.
- (15) Improper charges, fraud. Improper charges constitute a form of fraudulent and deceptive practice. Improper charges or fraud may include, but are not limited to: Intentionally submitting to any third-party payor a claim for a service or treatment which was not actually provided to a patient.
- (16) Advertising x-ray services restricted. Advertising free x-ray services without explanation of need or otherwise implying indiscriminate use of x-radiation is prohibited.

B. X-ray and Patient Records Release.

- (1) A patient or the patient's legal representative has a right to receive a copy of patient records and x-rays, or have the records transferred, upon written request, when accompanied by a written authorization from the patient or patient's representative to release the record and to receive these records within fourteen (14) calendar days of the date of request.
- (2) A chiropractor may rely on the representations of a health and life insurance carrier or administrator of health and life insurance claims that the authorization of the patient or of a person upon whose status the patient's claim depends for release of the record is on file with the carrier as an authorization to release medical information.
- (3) Unpaid charges incurred by the patient are not grounds for refusal to release records.
- (4) A chiropractor may charge reasonable costs for copying patient records not to exceed those found in statute.

C. Closure of or departure from a chiropractic practice.

- (1) In accordance with 25-6(F), when departing or closing a chiropractic practice, current and former patients and the board must be notified by written or electronic mail correspondence a minimum of sixty (60) days prior to the closure. The notice must include:
- (a) the office closing date;
 - (b) where records will be stored;
 - (c) how to obtain records;
 - (d) a release of information form
 - (e) deadline for submitting records request; and

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(f) information on how to contact a new chiropractor/healthcare provider.

(2) An announcement should be placed in the local newspaper of the closure at least sixty (60) calendar days prior to the closure.

D. In the event the chiropractor chooses to terminate the relationship with the patient and no longer plans to provide or render professional services, the patient shall be notified in writing by certified mail at his or her last known address and a copy sent to the board administrator. The chiropractor shall offer the patient a referral to seek other care and the ability to obtain his or her records.

E. Specialty Certification. Practitioners may not advertise or hold themselves out as a specialist or specializing in any activity unless the practitioner is certified from:

(1) a specialty council approved by the American Chiropractic Association or International Chiropractors Association;

(2) a specialty taught by a chiropractic school accredited by the Council on Chiropractic Education, or its equivalent specialty board or council; or

(3) a specialty approved by the Board.

F. Chiropractic Records. A practitioner must keep written chiropractic records justifying the course of treatment of the patient for a minimum of ten (10) years for adult patients and at least thirteen (13) years for minors. These minimum record-keeping periods begin on the last date of treatment.

G. Contagious and Infectious Diseases. In all cases of known or suspected contagious or infectious diseases occurring within this State, the attending practitioner shall report such disease to the county health department within twenty-four (24) hours, stating the name and address of the patient and the nature of the disease.

(1) The Department of Health and Environmental Control shall designate the diseases it considers contagious and infectious.

(2) Any practitioner who fails to comply with this provision is subject to penalties imposed by the appropriate health department.

25-7. Code of Ethics.

A. Doctors of Chiropractic shall be guided by the highest standards of moral conduct. Chiropractors shall exemplify professional qualities in all dealings with patients, the general public and other members of the profession.

B. The Doctor of Chiropractic reserves the option to establish a chiropractor/patient relationship.

(1) A chiropractor/patient relationship requires that the chiropractor make an informed judgment based on training and experience. This will require that the chiropractor:

(a) discuss with the patient the analysis and the evidence for it, and the risks and benefits of various treatment options; and

(b) ensure the availability of the chiropractic coverage for patient follow-up care.

C. The Doctor of Chiropractic owes a duty to maintain the highest degree of skill and care by keeping abreast of all new developments in Chiropractic to improve knowledge and skill in the Science, Art and Philosophy of Chiropractic.

D. A Doctor of Chiropractic holds in confidence all information obtained at any time during the course of the chiropractor/patient relationship except where required by law or to protect the welfare of the patient or community.

E. A chiropractor may not assume to speak for the chiropractic profession. The chiropractor should qualify remarks as a personal opinion and not necessarily that of the profession.

F. The commission of an act of sexual misconduct or sexual relations by a chiropractor with a patient is unprofessional conduct and cause for disciplinary action pursuant to Section 25-6 of this chapter. Sexual misconduct is defined as engaging in, soliciting or otherwise attempting to engage in, any form of sexual relationship, activity or contact with a current patient, or with a former patient who has received a professional consultation, diagnostic service or therapeutic service within the past ninety (90) days.

25-8. Advertising and Solicitation.

A. Professional Standards. Advertising practices by chiropractors should be ethical and professional.

B. For the purpose of this regulation, the terms communication, solicitation or advertisement shall mean any message, written broadcast or offer made by or on behalf of a licensee.

C. Signs, solicitations, or advertisements shall clearly indicate that chiropractic services are being offered.

D. A communication, solicitation or advertisement shall not:

(1) contain a material misrepresentation of fact or law, or omit a fact necessary to make the statement considered as a whole not materially misleading;

(2) create an unjustified expectation about results the chiropractor can achieve, or state or imply that the chiropractor can achieve results that violate the rules of Professional Conduct, the Code of Ethics, or other law;

(3) compare the chiropractor's services with other chiropractors' or practitioners' services, unless the comparison can be factually substantiated;

(4) fail to indicate clearly, expressly or by context, that it is an advertisement;

(5) involve intrusion, coercion, duress, compulsion, intimidation, threats, or harassing conduct, particularly those communications requiring an immediate response such as in-person or live telephone contact;

(6) solicit a prospective patient while transmitted at the scene of an accident or en route to a hospital, emergency care center or other health care facility;

(7) involve the payment, receipt of a commission or other gratuity for referral of patients. The chiropractor must limit the source of his professional income to services actually rendered by him or under his supervision, to his patients.

E. Every licensee shall display prominently in the licensee's office the word chiropractor or D.C.

25-9. Disciplinary Actions and Procedures.

A. Complaint; Determination of Just Cause. Any action of the Board shall commence only after the Board receives a written complaint. If the Board determines, after a preliminary investigation, the facts are not sufficient to support an alleged violation, the Complainant will be notified, and the complaint dismissed.

(1) Initial complaints regarding alleged professional misconduct that involve what may be determined to be an imminent threat to the public, incorporating a finding to that effect in an order, may require the issuance of a temporary suspension order. A temporary suspension order may be issued without a prior hearing being afforded to the licensee, in which event the licensee may request by the close of the next business day after receipt of the order a review by an administrative hearing officer. The fact of suspension or restriction of a license, and the fact of any subsequent related action, is public information under the Freedom of Information Act after issuance of an order, unless a review by the administrative hearing officer has been timely requested in writing. Filing a written request for a review by the administrative hearing officer does not stay the temporary suspension and no stay may be issued; however, the fact of the issuance of the temporary suspension order must not be made public until the time for requesting a review has passed or the administrative hearing officer issues an order after a review hearing. Upon proper written request, a review hearing must be held by the administrative hearing officer within three business days of the filing of the request for review, unless otherwise agreed by the parties. If the issuance of the temporary suspension order is not sustained by the administrative hearing officer, the matter must remain confidential and must not be made public, except to the extent the Board considers it relevant to the final decision of the Board.

B. Formal Complaint and Board Hearing. If the Board determines sufficient facts exist to support an alleged violation, disciplinary action will proceed as follows:

(1) The Office of General Counsel shall provide thirty (30) days' notice to the Complainant and the Respondent and schedule a hearing before the Board.

(2) The General Counsel's office shall present the case for the Complainant before the Board.

(3) The Respondent and counsel shall have the right to appear before the Board at such hearing, submit briefs and be heard in oral argument.

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(4) Thereafter, the Board will file a final certified report of its findings of fact, conclusions of law and disciplinary action to be taken.

(5) The Board will notify the Complainant and the Respondent of such action.

(6) A decision by the Board to revoke, suspend or otherwise restrict a license, or to limit or otherwise discipline a licensee, shall require a majority vote by the Board.

(7) A decision by the Board to revoke, suspend or otherwise restrict a license or to limit or otherwise discipline a licensee, or one who is found to be practicing chiropractic in noncompliance with this chapter shall not become effective until the tenth (10) day following the date of delivery to the Respondent of a written copy of the decision. The Board's decision will constitute a final administrative decision.

C. Appeal of Decision. The Board's final administrative decision shall be subject to appeal to the Administrative Law Court. The Respondent shall serve notice of the appeal upon the Board within thirty (30) days from the delivery date of the Board's decision to the Respondent. Service of a petition for a review of the decision shall stay the Board's decision pending completion of the appellate process.

D. Proceedings Confidential Until Filed. As authorized by Sections 40-9-97 and 30-4-70, S. C. Code of Laws 1976, unless and until otherwise ordered by this Board, all proceedings and documents relating to complaints and hearings thereon and to proceedings in connection therewith shall be confidential, unless the Respondent shall in writing request that they be public. The Administrator of the Board shall keep secure in the Board's offices all written records and documents pertaining to disciplinary procedures.

Fiscal Impact Statement:

There will be no cost incurred by the State or any of its political subdivisions.

Statement of Rationale:

These regulations are updated in conformance with the current Chiropractic Practice Act.

Document No. 4325

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Sections 59-26-10 et seq. (2004 and Supp. 2012)

43-205.1. Assisting, Developing, and Evaluating Professional Teaching (ADEPT)

Synopsis:

The South Carolina Department of Education (SCDE) recommends that the State Board of Education propose amendments to Regulation 43-205.1, Assisting, Developing, and Evaluating Professional Teaching (ADEPT), to align the regulation with the 2012 amendments to the ADEPT statute (S.C. Code Ann. § 59-26-40 (Supp. 2012)) and the 2012 amendments to State Board of Education R.43-53 (Credential Classification), as well as with the variations regarding the dates by which districts are permitted and required to issue employment offers to teachers.

The Notice of Drafting for the proposed amendments was published in the *State Register* on August 24, 2012.

Instructions:

The following section of Regulation 43-205.1 is modified as provided below. All other items and sections remain unchanged.

Text:**I. State Standards for Professional Teaching**

Teacher preparation programs and school districts must address, but are not limited to, the performance standards for Assisting, Developing, and Evaluating Professional Teaching (ADEPT), as specified in the State Board of Education's ADEPT implementation guidelines.

II. Teacher Candidates

A. All teacher education programs must adhere to State Board of Education regulations governing the preparation and evaluation of teacher candidates.

B. Each teacher education program must develop and implement a plan for preparing, evaluating, and assisting prospective teachers relative to the ADEPT performance standards in accordance with the State Board of Education's ADEPT implementation guidelines. ADEPT plans must be approved by the State Board of Education prior to implementation.

C. By July 1 of each year, teacher education programs must submit assurances to the South Carolina Department of Education (SCDE) that they are complying with the State Board of Education's ADEPT implementation guidelines. Proposed amendments to previously approved ADEPT plans must be submitted along with the assurances and must be approved by the State Board of Education prior to implementation.

D. Teacher education programs must submit information on their teacher candidates, as requested annually by the SCDE.

E. The SCDE will provide teacher education programs with ongoing technical assistance such as training, consultation, and advisement, upon request.

III. Induction-Contract Teachers

A. Teachers who possess a valid South Carolina pre-professional teaching certificate, as defined by the State Board of Education, may be employed under an induction contract for up to, but not to exceed, three years. The employment and dismissal provisions of Article 3, Chapter 19, and Article 5, Chapter 25, of Title 59 of the 1976 Code of Laws do not apply to teachers employed under induction contracts.

B. Each local school district must develop and implement a plan to provide induction-contract teachers with comprehensive guidance and assistance throughout each induction year. District induction plans must comply with the State Board of Education's guidelines for assisting induction-contract teachers and must be approved by the State Board of Education prior to implementation.

C. On or before the date that the district extends offers of teaching employment for the following school year, teachers employed under induction contracts are to be notified in writing concerning their employment status. Teachers who complete an induction-contract year may, at the discretion of the school district, be employed under another induction-contract or an annual contract, or they may be released from employment. Teachers who are released may seek employment in another school district at the induction-contract level. The maximum induction period for a teacher is three years, regardless of the district in which the teacher is employed. A teacher who is completing a third year of induction is eligible for employment at the annual-contract level.

D. School districts must submit information on all teachers employed under induction contracts, as requested annually by the SCDE. Available flow-through funds to school districts will be provided on a first-year induction teacher basis.

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E. By May 1 of each year, school districts must submit assurances to the SCDE that they are complying with the State Board of Education's ADEPT implementation guidelines for assisting induction-contract teachers. A copy of the district's proposed induction timeline must accompany the assurances. Proposed amendments to the district's previously approved induction plan must be submitted along with the assurances and must be approved by the State Board of Education prior to implementation.

F. By June 20 of each year, school districts must submit end-of-year information on teachers employed under induction contracts and on the employment contract decisions made for the following year, as requested by the SCDE.

G. The SCDE will provide school districts with ongoing technical assistance such as training, consultation, and advisement, upon request.

IV. Annual-Contract Teachers

A. Teachers who have satisfied their induction requirements may be employed under an annual contract. Full procedural rights under the employment and dismissal provisions of Article 3, Chapter 19, and Article 5, Chapter 25, of Title 59 of the 1976 Code of Laws do not apply to teachers employed under annual contracts. However, annual-contract teachers do have the right to an informal hearing before the district superintendent, under the provisions of S.C. Code Ann. Section 59-26-40 (Supp. 2012).

B. Teachers employed under an annual contract must be evaluated or assisted with procedures developed or adopted by the local school district in accordance with the State Board of Education's ADEPT implementation guidelines. These procedures must include the development, implementation, and evaluation of an individualized professional growth plan for each teacher.

C. Teachers must not be employed under an annual contract for more than four years.

D. During the first annual-contract year, the annual-contract teacher must, at the discretion of the school district, either undergo a formal performance evaluation or be provided with diagnostic assistance. The term "formal performance evaluation" is defined as a summative evaluation of teaching performance relative to the state standards and evaluation processes, as specified in the State Board of Education's ADEPT implementation guidelines. All formal evaluation processes must meet the general technical criteria of validity, reliability, maximum freedom from bias, and documentation. The term "diagnostic assistance" is defined as an optional process for providing individualized support to teachers who have demonstrated potential but who are not yet ready to successfully complete a formal performance evaluation.

1. An annual-contract teacher who has met the formal evaluation criteria set by the State Board of Education, the requirements for annual-contract teachers set by the local board of trustees, and the requirements established by the State Board of Education for the professional teaching certificate is eligible for employment at the continuing-contract level. At its discretion, the district may either employ the teacher under a continuing contract or terminate the teacher's employment. If employment is terminated, the teacher may seek employment in another school district. At the discretion of the next hiring district, the teacher may be employed at the annual or continuing-contract level.

2. An annual-contract teacher who has met the formal evaluation criteria set by the State Board of Education and the requirements set by the local board of trustees but who has not yet satisfied all requirements established by the State Board of Education for the professional teaching certificate is eligible for employment under a subsequent annual contract, with evaluation being either formal or informal (i.e., goals-based), at the discretion of the local school district. At its discretion, the district may either employ the teacher under an annual contract or terminate the teacher's employment. If employment is terminated, the teacher may seek employment in another school district at the annual-contract level.

3. An annual-contract teacher who for the first time fails to meet the formal evaluation criteria set by the State Board of Education or who fails to meet the requirements set by the local board of trustees is eligible for employment under a subsequent annual contract. At its discretion, the district may either employ the teacher under an annual contract or terminate the teacher's employment. If employment is terminated, the teacher may seek employment in another school district at the annual-contract level.

An annual-contract teacher who has demonstrated potential but who has not yet met the formal evaluation criteria set by the State Board of Education and/or the requirements set by the local board of trustees is eligible for a diagnostic-assistance year at the annual-contract level. This diagnostic-assistance year must be provided, if needed, at the discretion of the employing school district, either during the teacher's first annual-contract year or during the annual-contract year following the teacher's first unsuccessful formal evaluation. A teacher is eligible to receive only one diagnostic-assistance year. At the end of the diagnostic assistance year, the district may either employ the teacher under an annual contract or terminate the teacher's employment. If employment is terminated, the teacher may seek employment in another school district at the annual-contract level. A diagnostic-assistance year must be followed by formal (summative) evaluation at the annual-contract level during the teacher's next year of teaching employment.

4. An annual-contract teacher who for the second time fails to meet the formal evaluation criteria set by the State Board of Education will have his or her teaching certificate automatically suspended by the State Board of Education, as prescribed in Section 59-5-60 of the South Carolina Code of Laws, 1976, and in State Board of Education Regulation 43-58. Subsequent to this action, the teacher will be ineligible to be employed as a classroom teacher in a public school in this state for a minimum of two years. Before reentry into the profession, the teacher must complete a state-approved remediation plan based on the area(s) that were identified as deficiencies during the formal evaluation process. Remediation plans must be developed and implemented in accordance with the State Board of Education's ADEPT implementation guidelines.

Following the minimum two-year suspension period and the completion of the remediation plan, as verified by the SCDE, the teacher's certificate suspension will be lifted, and the teacher will be eligible for employment at the annual-contract level. Upon his or her reentry into the profession, the teacher must be formally evaluated. If, at the completion of the evaluation process, the teacher meets the formal evaluation criteria set by the State Board of Education, he or she may continue toward the next contract level. If, at the completion of the evaluation process, the teacher does not meet the formal evaluation criteria set by the State Board of Education, he or she is no longer eligible to be employed as a public school teacher in this state.

E. Each school district must develop a plan to evaluate and provide diagnostic assistance to teachers at the annual-contract level, in accordance with the State Board of Education's ADEPT implementation guidelines. District plans also must include procedures for developing, implementing, and evaluating individualized professional growth plans for annual-contract teachers.

F. School districts must establish criteria or requirements that teachers must meet at the annual-contract level. At a minimum, districts must require annual-contract teachers to meet the ADEPT formal evaluation criteria and all other requirements for the professional teaching certificate, as specified by the State Board of Education, in order to advance to the continuing-contract level.

G. By May 1 of each year, school districts must submit assurances to the SCDE that they are complying with the State Board of Education's ADEPT implementation guidelines for evaluating and assisting teachers at the annual-contract level. A copy of the district's proposed formal evaluation and diagnostic assistance timelines must accompany the assurances. Proposed amendments to the district's previously approved ADEPT plan for annual-contract teachers must be submitted along with the assurances and must be approved by the State Board of Education prior to implementation.

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H. By June 20 of each year, school districts must submit end-of-year information on teachers employed under annual contracts and on the employment contract decisions made for the following year, as requested by the SCDE.

I. The SCDE will provide school districts with ongoing technical assistance such as training, consultation, and advisement, upon request.

V. Continuing-Contract Teachers

A. Teachers who have met the formal evaluation criteria set by the State Board of Education, the requirements for annual-contract teachers set by the local board of trustees, and the requirements established by the State Board of Education for the professional teaching certificate are eligible for employment at the continuing-contract level. Teachers employed under continuing contracts have full procedural rights relating to employment and dismissal as provided for in Article 3, Chapter 19, and Article 5, Chapter 25, of Title 59 of the 1976 Code of Laws.

B. Teachers employed under continuing contracts must be evaluated on a continuous basis. The evaluation may be formal or informal (i.e., goals-based), at the discretion of the district. Districts must develop policies for recommending continuing-contract teachers for formal evaluation. Continuing-contract teachers who are being recommended for formal evaluation the following school year must be notified in writing on or before the date the school district issues the written offer of employment or reemployment. The written notification must include the reason(s) that a formal evaluation is recommended, as well as a description of the formal evaluation process. Continuing-contract teachers who are new to the district must be advised at the time of their hiring if they are to receive a formal evaluation.

C. Each school district must develop a plan, in accordance with State Board of Education's ADEPT implementation guidelines, to continuously evaluate teachers who are employed under continuing contracts. At a minimum, district ADEPT plans for continuing-contract teachers must address formal and informal evaluations and individualized professional growth plans.

D. By May 1 of each year, school districts must submit assurances to the SCDE that they are complying with the State Board of Education's ADEPT implementation guidelines for continuously evaluating teachers at the continuing-contract level. A copy of the district's proposed formal and informal evaluation timelines must accompany the assurances. Proposed amendments to the district's previously approved ADEPT plan for continuing-contract teachers must be submitted along with the assurances and must be approved by the State Board of Education prior to implementation.

E. By June 20 of each year, school districts must submit end-of-year information on teachers employed under continuing contracts and on the employment decisions made for the following year, as requested by the SCDE.

F. The SCDE will provide school districts with ongoing technical assistance such as training, consultation, and advisement, upon request.

VI. Teachers Who Do Not Have Sufficient Opportunity to Complete the ADEPT Process

A. A teacher who is employed under an induction, annual, or continuing contract and who is absent for more than 20 percent of the days in the district's SBE-approved annual evaluation cycle may, at the recommendation of the district superintendent, have his or her ADEPT results reported to the SCDE as "incomplete."

B. Teachers whose ADEPT results are reported to the SCDE as "incomplete" are eligible to repeat their contract level during the next year of employment.

VII. Teachers Employed from Out of State

A. Teachers employed from out of state who receive a South Carolina initial teaching certificate based on reciprocity are eligible for employment under an induction contract.

B. Teachers employed from out of state who receive a South Carolina professional teaching certificate based on reciprocity are eligible for employment under an annual contract. At the annual-contract level, teachers may receive either a diagnostic-assistance year or a formal evaluation. Teachers who undergo formal evaluation and who, at the conclusion of the preliminary evaluation period, meet the formal evaluation criteria set by the State Board of Education may, at the discretion of the school district, have the final portion of the formal evaluation process waived. Teachers must successfully complete the formal evaluation at the annual-contract level before they are eligible to receive a continuing contract.

C. Teachers who are employed from out of state or from a nonpublic-school setting and who are certified by the National Board for Professional Teaching Standards (NBPTS) are exempted from initial certification requirements and are eligible for continuing contract status (S.C. Code Ann. Section 59-26-85 (Supp. 2012)).

VIII. Career and Technology Education Teachers, Candidates Pursuing Alternative Routes to Teacher Certification, and Teachers Employed on a Part-Time Basis

A. Teachers certified under the Career and Technology Education certification process must follow the same sequence as traditionally prepared teachers in terms of contract levels (i.e., induction, annual, and continuing) and ADEPT evaluation and assistance processes.

B. Candidates pursuing alternative routes to teacher certification must follow the same sequence as traditionally prepared teachers in terms of contract levels (i.e., induction, annual, and continuing) and ADEPT evaluation and assistance processes.

C. Teachers who are employed part-time and who receive a teaching contract (i.e., induction, annual, or continuing) must participate in the ADEPT evaluation and assistance processes.

IX. Teachers Employed under a Letter of Agreement

A. Teachers who are eligible for an induction or an annual contract but who are hired on a date that would cause their period of employment to be less than 152 days during the school year may be employed under a letter of agreement.

B. Teachers employed under a letter of agreement do not fall under ADEPT. However, districts must ensure that these teachers receive appropriate assistance and supervision throughout the school year.

C. The employment and dismissal provisions of Article 3, Chapter 19, and Article 5, Chapter 25, of Title 59 of the 1976 Code of Laws do not apply to teachers employed under a letter of agreement.

X. Teachers Who Hold an International Teaching Certificate

A. Teachers from outside the United States who hold an international teaching certificate must follow the same sequences as traditionally prepared teachers in terms of the beginning contract levels (i.e., induction and annual) and ADEPT evaluation and assistance processes.

B. Teachers from outside the United States who hold an international teaching certificate may remain at the annual-contract level but may not be employed under a continuing contract.

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XI. Teachers Employed in Charter Schools

A. Except as otherwise provided in the Charter Schools Act (S.C. Code Ann. Section 59-40-50(A) (Supp. 2012)), charter schools are exempt from all provisions of law and regulations applicable to a public school, a school board, or a district. However, a charter school may elect to comply with one or more of these provisions of law or regulations, such as the provisions of the ADEPT statute and regulation.

B. Charter schools that elect not to implement the ADEPT system may assist and/or evaluate their teachers according to the policies of their respective charter school committees. Certified teachers in these schools will accrue experience credit in a manner consistent with the provisions of State Board of Education Regulation 43-57 (S.C. Code Ann. Regs. 43-57 (2011)). Teachers in non-ADEPT charter schools who hold an initial teaching certificate are eligible to advance to a renewable limited professional certificate, as specified in State Board of Education Regulation 43-53 (S.C. Code Ann. Regs. (Supp. 2012)).

C. Charter schools that elect to implement the ADEPT system must comply with all provisions of the amended ADEPT statute (S.C. Code Ann. Sections 59-26-30 and 59-26-40, to be codified at Supp. 2012), this regulation, and the State Board of Education's ADEPT implementation guidelines. In fulfilling these requirements, the contract between the charter school and its sponsor must include an ADEPT provision. All certified teachers in the charter school must be assisted and evaluated in a manner consistent with the sponsor's State Board of Education-approved ADEPT plan for induction, formal evaluation, and goals-based evaluation. The ADEPT provision must address the charter school's responsibilities for ensuring the fidelity of the implementation of the ADEPT system. The provision also must address the sponsor's responsibilities in terms of staff training and program implementation. At a minimum, the sponsor must agree to disseminate all ADEPT-related information from the SCDE to the charter school and to report charter school teacher data to the SCDE. The provision must be included in the sponsor's ADEPT plan and approved by the State Board prior to implementation.

XII. Teachers Who Hold a Limited Professional Certificate

An educator who holds a valid South Carolina limited professional certificate is eligible for employment in a "regulated" South Carolina public school at the annual-contract level. At the annual-contract level, teachers may receive either a diagnostic-assistance year or a formal evaluation. Teachers who undergo formal evaluation and who, at the conclusion of the preliminary evaluation period, meet the formal evaluation criteria set by the State Board of Education may, at the discretion of the school district, have the final portion of the formal evaluation process waived. Teachers must successfully complete the formal evaluation at the annual-contract level before they are eligible to move from a limited professional certificate to a full professional certificate and to be employed under a continuing contract.

XIII. Reporting Requirements

Failure of a teacher education program or local school district to submit all required assurances or requested information pursuant to this regulation may result in the State Board of Education's withholding ADEPT funds.

Fiscal Impact Statement:

None.

Statement of Rationale:

The proposed amendments align the ADEPT regulation with the recent amendments to the ADEPT statute (S.C. Code Ann. § 59-26-40 (2004 and Supp. 2012)) and the 2012 amendments to State Board of Education

Regulation 43-53 (Credential Classification), as well as with the variations regarding the dates by which districts are permitted and required to issue employment offers to teachers.

Document No 4294
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 (2004), 59-18-110 (Supp. 2011), 59-29-10 et seq. (2004),
 59-29-200 (2004), 59-33-30 (2004), 59-53-1810 (Supp. 2011), 20 U.S.C. 1232(g), and
 20 U.S.C. 6301 et seq.

43-234. Defined Program, Grades 9–12

Synopsis:

The State Board of Education proposes to amend R.43-234 to change the name of the regulation and clarify the regulation for high school graduation in public schools in the state. It will also clarify the correct end-of-course examination for science, and language will be clarified from the State Department of Education to the South Carolina Department of Education. The regulation will also elucidate the use of proficiency credit for all schools.

Per request of the House of Representatives Education and Public Works Committee, the SCDE withdrew the regulation, made the changes delineated below, and is resubmitting the regulations:

According to Legislative Council, the language that is both underlined and struck is improperly drawn. In this instance, the Administrative Procedures Act (APA) requires that the agency will need to withdraw and resubmit (as a non-substantive change.)

The Committee requests that the following language be removed from the regulation in V.C.10. (The South Carolina Commission on Higher Education requires one unit in appreciation of, history of, or performance in one of the fine arts for college entrance.)

The Notice of Drafting was published in the *State Register* on July 27, 2012.

Instructions:

Regulation 43-234 is replaced in its entirety with the regulation below.

Text:

43-234. Defined Program, Grades 9-12 and Graduation Requirements.

Each school district board of trustees must ensure quality schooling by providing a rigorous, relevant curriculum for all students.

Each school district must offer a standards-based academic curriculum organized around a career cluster system that provides students with individualized education choices.

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I. Requirements for Earning a South Carolina High School Diploma

A. The student must earn a total of twenty-four units of credit as follows:

Unit Requirements

English language arts	4.0
mathematics	4.0
science	3.0
U.S. History and Constitution	1.0
economics	0.5
U.S. Government	0.5
other social studies	1.0
physical education or Junior ROTC	1.0
computer science (including keyboarding)	1.0
foreign language or career and technology education	1.0
electives	7.0

	24.0 total

B. The student must pass a classroom examination on the provisions and principles of the United States Constitution, the Declaration of Independence, the Federalist papers, and American institutions and ideals. This instruction must be given for a period of at least one year or its equivalent, either within the required course U.S. History and Constitution or within another course. (For specific regulations regarding the end-of-course test for U.S. History and Constitution, see R 43-262.4, End-of-Course Tests.)

C. The student must pass a high school credit course in science in which an end-of-course examination is administered.

D. The student must be enrolled for a minimum of one semester immediately preceding his or her graduation, except in case of a bona fide change of residence. Units earned in a summer school program do not satisfy this requirement.

E. The student must pass both parts of the South Carolina high school exit examination in addition to earning the required number of prescribed units. (For specific regulations regarding the exit examination, see R 43-262, Assessment Program.)

II. Provisions for Schools in the Awarding of High School Credit

A. A school may award and accept credit in units of one-fourth, one-half, and a whole.

B. A school may award one unit of credit for an academic standards-based course that requires a minimum of 120 hours of instruction. A school may award one-half unit of credit for an academic standards-based course requiring a minimum of 60 hours of instruction and one-fourth unit of credit for an academic standards-based course requiring a minimum of 30 hours of instruction.

C. A school may award credit for courses that have been approved by the South Carolina Department of Education (SCDE) in a proficiency-based system. A proficiency-based course may also be offered for one-fourth and one-half unit if the system specifies these units. Each school district that seeks to implement a proficiency-based system must submit a plan to the SCDE that provides procedures for establishing and developing a proficiency-based system including the method for determining proficiency. The SCDE must approve the district-submitted plan prior to the district's use of the proficiency-based system. Districts are accountable for making sure that the academic standards and the individual learning needs of the students are addressed.

D. A school may award credit for those gateway courses that are a part of the End-of-Course Examination Program only if a student takes the course approved by the school in which he or she is enrolled and meets all the stipulated requirements of the End-of-Course Examination Program. (For specific regulations regarding end-of-course tests, see R 43-262.4, End-of-Course Tests.)

E. A school may award credit only for courses in summer programs-either district-wide or school-site programs-that meet all the regulatory requirements for courses offered for students in grades nine through twelve. A district-wide summer school program may meet the administrative certification requirement by employing a district supervisor as well as a lead teacher for each school site.

F. A school may award credit for a course that is approved by the district-whether that school offers the particular course or not-if the student receives prior approval.

G. A school may award credit toward the high school diploma for a course that the student takes in an approved adult education program if the course is granted approval by the local superintendent or his or her designee.

H. A school may award credit for locally designed courses under the following conditions:

1. Locally designed subject-area courses must be aligned with the state academic standards for the particular subject area and must be approved by the local board of trustees and the State Superintendent of Education.

2. Locally designed elective courses must be approved by the local board of trustees. No more than two units may be awarded to a student for released-time classes in religious instruction.

3. Locally designed CATE courses funded with state or federal CATE monies must be approved by the SCDE's Office of Career and Technology Education.

I. A school may award the PE credit for a diploma if the PE course meets all statutory requirements including the personal fitness and wellness component and the lifetime fitness component.

J. A school may award the one-half unit of credit carried by the course Keyboarding for half of the required computer science unit.

K. A school may award credit for the American Sign Language course as the required unit in a foreign language.

L. A school may award credit for a college course that students in grades nine through twelve take under the district's dual credit arrangement.

III. Dual Credit Arrangement

A. District boards of trustees may establish a policy allowing students to take college courses for units of credit toward the high school diploma. The district policy may allow for courses to be offered by an institution of higher education through a cooperative agreement.

B. A three-semester-hour college course transfers as one unit of credit.

C. Tuition costs and any other fees are the responsibility of the individual student or his or her parent(s) or legal guardian unless otherwise specified in local school district policy.

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D. Students enrolled in a South Carolina public school may take only courses that are applicable to baccalaureate degrees or to associate degrees offered by institutions accredited by the New England Association of Colleges and Schools, the Middle States Association of Colleges and Schools, the Southern Association of Colleges and Schools, the North Central Association of Colleges and Schools, the Western Association of Colleges and Schools, or the Northwest Association of Colleges and Schools.

IV. Transfer Students

A transfer student is one who enrolls in a South Carolina public school after having been enrolled in another school in this state or in a school in another state. Credits that he or she earned at the former school may be accepted and applied toward the South Carolina high school diploma. (For specific regulations see R 43-273, Transfers and Withdrawals.)

V. Instructional Program

School districts must organize high school curricula around a minimum of three clusters of study and cluster majors. Such curricula must be designed to provide a well-rounded education that fosters artistic creativity, critical thinking, and self-discipline through the teaching of academic content and skills that students will use in postsecondary study and in the workplace. Students must declare an area of academic focus, also known as a career major, within a cluster of study before the end of the second semester of their tenth-grade year.

A. Schools must offer specific courses in the subject areas listed below. Courses designated with an asterisk are recommended, not required.

English language arts:

English 1, 2, 3, 4

Mathematics:

Algebra 1, Mathematics for the Technologies 1, 2, 3, 4*

Algebra 2, Geometry

Pre-calculus, Calculus

Discrete Mathematics*, Probability and Statistics

Science:

Physical Science

Earth Science*

Biology 1, Biology 2*, Applied Biology 1, 2*

Chemistry 1, Chemistry 2*, Chemistry for the Technologies

Physics, Physics for the Technologies 1, 2*

Social Studies:

U.S. History and Constitution

U.S. Government

Economics

World History and World Geography

B. Career Clusters

School districts must use the sixteen clusters for reporting purposes but may modify these clusters (for example, Arts and Humanities in place of Arts, Audio-Video Technology, and Communications). The sixteen state clusters are the same as the sixteen federal clusters:

Agriculture, Food, and Natural Resources
 Architecture and Construction
 Arts, Audio-Video Technology, and Communications
 Business, Management, and Administration
 Education and Training
 Finance
 Government and Public Administration
 Health Science
 Hospitality and Tourism
 Human Services/Family and Consumer Sciences
 Information Technology
 Law, Public Safety, and Security
 Manufacturing
 Marketing, Sales, and Service
 Science, Technology, Engineering, and Mathematics
 Transportation, Distribution, and Logistics

C. Schools must also offer instruction in each of the following areas:

1. Advanced Placement: Schools whose organizational structure includes grades eleven and twelve must offer Advanced Placement courses. (For specific regulations regarding the Advanced Placement program, see R 43-258.1, Advanced Placement.)
2. Alcohol, tobacco, and other drugs: Schools must provide age-appropriate instruction regarding the dangers in the use and abuse of alcohol, tobacco, and other drugs. Instruction must emphasize the negative effects that the use of such substances can have on the total community.
3. Career and technology education: Schools must offer CATE courses. Students who plan to complete a CATE program must earn at least four units in an approved sequence of CATE courses leading to a career goal.
4. Driver education: Schools must provide a complete program of driver education, including classroom and behind-the-wheel phases, each semester on an elective basis for eligible students. (For specific regulations regarding driver education, see R 43-242, Driver Training.)
5. Environmental studies: Schools must include environmental studies as a part of their instructional program.
6. Financial literacy: Schools must include financial literacy as a part of the instructional program.
7. Foreign language (modern and classical languages): Schools must offer levels 1 and 2 of at least one modern or classical language. Most state four-year colleges/universities require at least two units of the same modern or classical language for admission.
8. Health education: Schools must have a program of instruction in comprehensive health education. (For specific requirements regarding health education, see R 43-238, Health Education Requirement.)
9. Physical education: Schools must offer a physical education course that meets statutory requirements.
10. Visual and performing arts: Schools must offer courses in the visual and performing arts.

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VI. Other Program Requirements

A. Guidance Program

All schools encompassing any combination of grades nine through twelve are required to provide a comprehensive guidance program that is based on grade-specific standards. The standards must address the academic, personal and social, and the career domains. Specifically, students must be provided guidance and career awareness programs and activities that assist them in developing and fulfilling their individual graduation plans and prepare them for a seamless transition to relevant employment, further training, or postsecondary study.

B. Library Media Program

Library media programs and technology resources must be available and accessible to all students and staff and must be appropriate for the accomplishment of the strategies and goals in each school renewal or district strategic plan.

C. Length of School Day

1. The instructional day for secondary students must be at least 6 hours, excluding lunch, or the equivalent weekly.

2. Homeroom will not count as part of the instructional day. When no homeroom period is utilized, the administrative time that is used to determine attendance, make announcements, or complete other tasks normally accomplished during homeroom period will not be considered as part of the instructional day.

3. Schools may exercise options and vary the number of minutes in the instructional week, provided that such variation meets statutory requirements and is approved by the local board of trustees.

D. Class Size

1. The teacher load must not exceed the maximum of 150 students daily. Class size must not exceed the maximum of 35 students.

2. The above-stated maximums do not apply in the following circumstances:

a. A maximum of 40 students per period with a total teaching load of 240 students daily is permitted for physical education teachers. If physical education and health are taught on alternate days to the same class, the 40-student maximum and 240-student totals are also permitted for health. When health is taught as a separate subject, the teaching load is a maximum of 35 students per period and a total of 150 students per day.

b. Music teachers may teach a maximum of 240 pupils daily. No class may exceed 40 students in membership. However, when band, chorus, or orchestra require rehearsals of the entire membership, any number of students is acceptable if adequate space is available.

c. When a teacher's daily schedule includes a combination of subjects, the maximum daily teaching load will be calculated on the basis of 30 students per academic class and 40 students for each music or physical education class. (Example, 3 classes of math of 30 each = 90 + 2 classes of physical education of 40 each = 80. In this example, the teacher is not overloaded but teaches maximum allowable.)

d. Maximum teacher load requirements and individual class size limits are the same for mini-courses as for any other classes.

E. Additional Regulatory Requirements

1. Due to federal requirements, all students must take a science course for which an assessment is given.
2. For state accountability purposes, every student must take an end-of-course examination in biology.
3. State Board regulations that contain instructional program requirements are accessible on the SCDE Web site on the “State Board of Education Regulations Table of Contents” page.

VII. Reporting Requirements

A. High School Completers

1. Each school issuing the state high school diploma must submit to the State Superintendent of Education on or before May 1 the following data on its previous year’s completers:

(a) the number of the school’s completers who entered the freshman class of a postsecondary institution-either in South Carolina or out of state-and on whom such an institution has sent the school a first-term transcript or summary grade report,

(b) a breakdown of all postsecondary courses that this group of completers passed during their term,

(c) a breakdown of all postsecondary courses that this group failed during their first term,

(d) a breakdown of all postsecondary courses for which this group received a grade of “no credit” during their first term, and

(e) the number of the school’s completers who did not enter a postsecondary institution but who instead chose a postsecondary alternative such as employment or military service or for whom no information is available.

2. Each school must use the official form to submit the required data on its previous year’s completers.

B. Career and Technology Education Completers

Each district must survey all its high school graduates who are identified as career and technology education completers to determine their placement status with regard to employment, postsecondary education, and military service. A career and technology education completer is a student with an assigned Classification of Instructional Programs (CIP) code who has earned at least four units of credit in CATE courses leading to a career goal.

The district must conduct the survey ten months after graduation each year and must submit the results annually to the SCDE for the purpose of federal and state accountability requirements.

C. Student Records

1. Each school must have an appropriate means of reporting academic achievement to parents.

2. Each school district must maintain accurate student data according to the pupil accounting system prescribed by the SCDE .

3. Each school district must file a record of all dropouts that specifies for every student the name of the school in which he or she was enrolled and gives the following information on the student: his or her name, grade, race, sex, date of birth, free/reduced meals status, English proficiency status, and migrant status.

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4. Each district superintendent must verify the accuracy of the student enrollment, attendance, membership by category, and dropout reports submitted to the SCDE's Office of Finance.

5. Each school must comply with the Family Educational Rights and Privacy Act regarding student records (20 U.S.C. Section 1232(g)).

D. Course Records for Students

1. Each district superintendent must verify the accuracy of course records for students.

2. The name and code number of every course that each student takes must be entered into the student data collection system active master scheduler at the time the student takes the course. Courses may not be added to the student's course history (transcript) without first being entered into the scheduler.

3. Courses offered in nontraditional settings such as online courses, courses offered in conjunction with a college or technical college (i.e., dual credit), and courses offered by the school through the district, state, or another type of provider must be included in the active master scheduler.

VIII. Emergency Closings

Full school days missed because of weather or other unforeseen circumstances must be made up. Three days within a school calendar must be designated as makeup days. A plan to make up days by lengthening the school day by more than one hour must be approved by the SCDE . Early dismissal days must be reported to and approved by the director of the Office of Federal and State Accountability .

Fiscal Impact Statement:

No additional state funding is requested. The Department of Education estimates that no additional costs will be incurred by the State and its political subdivisions in complying with the proposed revisions to Regulation 43-234.

Statement of Rationale:

The changes herein related to the science end-of-course examination and striking of the global studies course in the regulation will clarify the new examination the students are to take and eliminate a course. These changes will help districts ensure that the academic standards and the individual learning needs of the students are addressed. The regulation will also include Graduation Requirements in the title to clarify that this is the regulation to refer to when looking for the requirements for high school graduation. The department's name will be properly changed to the South Carolina Department of Education. Proficiency-based systems need to be clarified.

Document No. 4308
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 (2004) and 59-29-170 (2004)

43-220. Gifted and Talented

Synopsis:

Regulation 43-220, Gifted and Talented, establishes the criteria for student eligibility in gifted and talented programs and sets forth the program service and curriculum requirements. Academic and artistic gifted programs are addressed in this regulation. The provisions of this regulation include, but are not limited to, program, identification of population to be served, staff, reporting, funding, and expenditures and accounting procedures. With the development of a new state assessment (Palmetto Assessment of State Standards), the increase in public school choices (charters, single gender, etc.), and other common issues for districts, the regulation revision will attempt to resolve some of these challenges.

The Gifted and Talented Regulation needs to be amended to reflect changes in terminology, best practices, and accountability. The proposed amendments to Regulation 43-220 conform to changes in state law, add clarification, and update obsolete terminology in the field of gifted and talented education.

Per request of the House of Representatives Education and Public Works Committee, the SCDE withdrew the regulation and make the changes delineated below, and resubmit the regulations:

In both III.C.1.(c) and III.4.(a) replace “or” with “and.” In addition, the words “one of” will be added after the words, “...to be chosen from.”

The words “one of” will be added after the words, “...to be chosen from” in II.B.8.

A Notice of Drafting was published in the *State Register* on August 24, 2012.

Instructions:

Regulation 43-220 is replaced in its entirety with the regulation below.

Text:

43-220. Gifted and Talented.

Purpose: The State Board of Education recognizes the need to provide gifted and talented education services to identified students in grades one through twelve. These regulations provide the framework for provision of these services. All regulations must be followed in order to qualify for state funding.

In order to comply with the South Carolina Education Improvement Act of 1984, school districts must provide programming for all gifted and talented students at the elementary and secondary levels. These programming services shall develop the unique talents of students.

I. DEFINITIONS

A. Population

1. Gifted and talented students are those who are identified in grades one through twelve as demonstrating high performance ability or potential in academic and/or artistic areas and therefore require educational

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programming beyond that normally provided by the general school programming in order to achieve their potential.

2. Gifted and talented abilities for these regulations include

(a) Academic and Intellectual Ability: Students who have the academic and/or intellectual potential to function at a high level in one or more academic areas.

(b) Visual and Performing Arts: Students who have the artistic potential to function at a high performance level in one or more of the fine arts (dance, music, theatre, and visual arts).

B. Terms

1. Academic areas: any or all of the academic disciplines and performance skills that cross the disciplines to include research, technology, and reasoning

2. Academic discipline/disciplines: English language arts, mathematics, science, social studies, and foreign language

3. Artistic areas: any or all of the artistic disciplines and performance skills that cross the disciplines to include research, technology, creativity, and aesthetics

4. Assessment: evaluation and re-evaluation of student aptitudes, attributes, and behaviors according to specified dimensions

5. Confluent: blending and moving forward together

6. Demonstrating (academic): making evident or establishing by reasoning; proving

7. Demonstrating (artistic): making evident or establishing by reasoning, performing, and producing

8. Differentiation: the deliberate adaption and modification of the curriculum, instructional processes, and assessments to respond to the individual needs of gifted and talented learners

9. High level: functional or performance level set by the identification dimensions in these regulations

10. Multi: more than one

11. Multiage classroom: regular classroom where gifted and talented students are served through grade placement above chronological grade placement

12. Placement: evaluation of student profiles for service indications

13. Referral: consideration of one or more students based upon the screening and identification process established in these regulations

14. Regular classroom cluster/itinerant teacher: an intra-classroom model in which students in grades 1–2 receive services from the trained classroom teacher or an itinerant teacher

15. Resource room/pull out: self-contained gifted and talented class that meets away from the regular classroom to provide the services established in these regulations

16. Screening: consideration of all students on consistent measures as established in these regulations

17. Special class: self-contained gifted and talented class organized around one or more disciplines

18. Special school: full-time academic/artistic gifted and talented magnet school: full-time academic/artistic gifted and talented school within a school

19. State identification criteria: the originating state must have a statewide (not local) definition of gifted and talented academic and/or gifted and talented artistic, and the student must satisfy those statewide requirements

II. ACADEMICS

A. Programming

1. Districts will plan for and provide a comprehensive, aligned, and coordinated continuum of services that address the advanced learning needs of gifted and talented students. To document planning, districts will submit a local gifted and talented programming plan every five years and delineate progress on this plan annually. The South Carolina Department of Education (SCDE) will review the plan annually and provide written feedback to the districts. The SCDE shall establish a format and template for the plan. The following academic programming requirements will be addressed in a district plan:

(a) differentiated curriculum, instruction, and assessment that maximize the potential of the identified students;

(b) support services that facilitate student learning and personalized education (e.g., mentorships, online courses, independent study, assistive technologies, guidance, academic support, staff development, academic competition);

(c) programming models that facilitate the delivery of differentiated curriculum and instruction;

(d) a teacher-pupil ratio that fosters positive results;

(e) appropriate and sufficient time in instruction to assure that the goals and objectives of the programming are met; and

(f) systematic assessment of student progress and programming effectiveness relative to goals.

2. To provide curriculum, instruction, and assessment that maximize the potential of the identified students, educational programming for academically gifted and talented students must reflect the following characteristics:

(a) content, process, and product standards that exceed the state-adopted standards for all students and that provide challenges at appropriate levels for strengths of individual students;

(b) goals and indicators that require students to demonstrate depth and complexity of knowledge, creative and critical thinking, and problem-solving skills;

(c) instructional strategies that promote inquiry and accommodate the unique needs of gifted and talented learners;

(d) a confluent approach that incorporates acceleration and enrichment;

(e) opportunities for the critical consumption, use, and creation of information using available technologies ; and

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(f) evaluation of student performance and programming effectiveness.

3. Districts should reference the most current edition of the *South Carolina Gifted and Talented Best Practices Manual* for programming models and curriculum requirements.

4. The models and teacher-pupil ratios that are approved for programming service at respective grade levels are

Grades	Approved Programming Model Choices
1-2	Regular Classroom/Itinerant Teacher (1:10) Multiage Classroom (NA) Resource Room/Pull-out (1:15)
3-5	Special School (1:25) Special Class (1:25) Resource Room/Pull-out (1:20)
6-8	Special School (1:25) Special Class (1:25) Resource Room/Pull-out (1:20)
9-12	Special School (1:25) Special Class (1:25)

5. An appropriate teacher-pupil ratio fosters positive results. The teacher-pupil ratios are listed beside the models in the chart above.

6. Extension Models, while encouraged to supplement service, may not be substituted for one of the Approved Programming Model Choices. They include but are not limited to

Grades	Extension Model
1-2	After School/Summer Services Individual Educational Plan Grade/Subject Acceleration Independent Study Special Training/Services for Parents Critical Thinking Seminars
3-5	Regular Classroom Cluster/Itinerant Model After School/Summer Services Independent Study Virtual School Courses Charter School Experiences International Baccalaureate Classes
6-12	Mentorship/Internship Regular Classroom Cluster/Itinerant Model After School/Summer Services Independent Study Seminars Exploratory Courses

Virtual School Courses
 Charter School Experiences
 International Baccalaureate Classes

7. A school or district may elect to serve students in any of the above Approved Programming Models through a consortium agreement with other school districts. Other innovative models developed by the school district must receive written approval annually from the SCDE.

8. The programming must provide appropriate and sufficient time to assure that the goals and objectives of the programming are met. The following time requirements must be met by resource room/pull-out (R/P) and regular special classroom/itinerant (SC) teacher programming models at respective grade levels to assure funding:

Grades	Programming Model	Minimum Minutes Per Year (Per Week*)
1-3	R/P	4500 (125)
	SC	8100 (225)
4-8	R/P	7200 (200)
	SC	8100 (225)
9-12	SC	8100 (225)

* = Assumes programming services of 36 weeks per school year.

The special school model requires full-time (academic) service.

9. The preparation of differentiated curriculum for gifted and talented students requires planning time for teachers at each level. Teachers shall be provided two hundred and fifty minutes per week or the appropriate grade-level equivalent for planning.

10. Annual professional development on differentiated curriculum, instructional strategies, social-emotional support, assessments, or other gifted and talented student-focused topics shall be provided by the district for all teachers working with gifted and talented students.

B. Identification of Population to be Served

1. The purposes of identification are (1) to find students who display characteristics of the gifted and talented; (2) to assess the aptitudes, attributes, and behaviors of each student; and (3) to evaluate each student for the purposes of placement. Student aptitudes, attributes, and academic behaviors will be identified, assessed, and reviewed through a multistep, multimodal, and multidimensional identification system.

2. Gifted and talented students may be found within any racial, ethnic, or socioeconomic group; within any nationality; within both genders; and within populations of students with disabilities.

3. Identification is a multistep process, which consists of screening and referral, assessment of eligibility, and placement.

4. Districts should reference the most current edition of the *South Carolina Gifted and Talented Best Practices Manual* for the identification process.

5. The following students are deemed eligible for services with the approval of the District Evaluation Placement Team:

- (a) students who meet the criteria in two out of three dimensions that follow in Section II.B.7,

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(b) students who meet the 96th national age percentile composite score or higher (placement grades three through twelve) or the 98th national age percentile composite score or higher (placement grades one through two) on an individual or group aptitude test,

(c) students identified in one South Carolina school district are eligible for services in any South Carolina school district, and

(d) students who have met the *state identification criteria* in another state and who transfer into a South Carolina public school are eligible for Gifted and Talented services as deemed appropriate by the Evaluation Placement Team.

6. Screening/Referral Procedures

(a) Districts shall screen all students by reviewing census aptitude and achievement test scores. Referrals from administrators, parents, teachers, and students must be accepted. Initial screening does not in itself guarantee placement.

(b) Districts shall include the following procedures in the screening/referral process:

(1) provide all parents/guardians with effective, written notice of the gifted and talented education programming, screening/referral procedures, and eligibility requirements;

(2) implement processes for identifying the academically gifted and talented from all student populations;

(3) provide training/guidance regarding the characteristics of academic giftedness for teachers and other district staff involved in the identification process; and

(4) use screening criteria and procedures that are directly related to the purpose of the gifted and talented programming (i.e., identifying all students with demonstrated potential for high academic performance as well as those who have demonstrated high achievement).

(c) All students with the potential for eligibility after screening and all students with referrals must continue into the assessment for eligibility phase of the identification process. The SCDE will establish procedures for screening and referral criteria with options for districts. Districts must use one of these options or obtain SCDE approval of an alternative proposal.

7. Assessment for Eligibility

(a) Districts must ensure that all assessment instruments/measures are reviewed for bias and accurately assess the abilities/skills/potential intended to be measured; these abilities/skills/potentials are consistent with the definition of population set forth in this regulation; and, to the extent that subjective assessment criteria are used, those individuals conducting the assessment are trained to ensure proper evaluation.

(b) No private testing will be accepted for eligibility, but those results may be considered for referral purposes.

(c) The following criteria organized by dimensions shall be used in the screening/referral/assessment processes of identification:

(1) Dimension A: Reasoning Abilities

These students demonstrate high aptitude (93rd national age percentile or above) in one or more of these areas: verbal/linguistic, quantitative/mathematical, nonverbal, and/or a composite of the three.

- a) Individual aptitude test (full-scale or component score)
- b) Group aptitude test (composite, verbal, or nonverbal scores)

(2) Dimension B: High Achievement in Reading and/or Mathematical Areas

These students demonstrate high achievement (94th national percentile and above or meet criteria set forth by the SCDE) in reading and/or mathematical areas as measured by nationally normed or South Carolina statewide assessment instruments. (See the most current edition of the *South Carolina Gifted and Talented Best Practices Manual* for approved subtest areas.)

(3) Dimension C: Intellectual/Academic Performance

These students demonstrate a high degree of interest in and commitment to academic and/or intellectual pursuits or demonstrate intellectual characteristics such as curiosity/inquiry, reflection, persistence/tenacity in the face of challenge and creative productive thinking. Characteristics for this dimension are demonstrated through

- a) Evidence of commitment in academic disciplines through grades for placement in grades six through twelve; the standard is 3.75 points on a 4.0 scale (See the glossary of terms for a listing of the academic disciplines.);

or

- b) Assessments of performance on STAR Performance Task Assessment for placement in grades three through six. Instruments for these assessments will be maintained secure under S.C. Code Ann. Section 59-1-445 (1990), Section 59-1-445, Violations of mandatory test security; penalties; investigations. The performance standard for the primary level is sixteen on either the verbal or nonverbal assessments for placement into grade three and eighteen on either the verbal or nonverbal assessment for placement into grade four. The performance standard for the intermediate level is sixteen on the verbal or twenty-two on the nonverbal for placement into grade five and eighteen on the verbal or twenty-five on the nonverbal for placement into grade six. The qualifying standards for new forms of STAR Performance Task Assessment will be equivalent to those of the base year.

(4) Districts will follow steps established by the SCDE to guarantee no single criterion eliminates students from gifted and talented programming participation.

8. Placement

(a) The evaluation step in the identification process of gifted and talented students shall be the responsibility of an evaluation/placement team within the school or district. The team shall be composed of at least a teacher, an administrator, and a guidance counselor or a psychologist (if employed by the district). In the event all three categories cannot be represented, more than one member may be chosen from one of the three categories. The evaluation/placement team for an individual student may also include a guidance counselor and/or a community-related person whose training and expertise qualifies him or her to appraise the special competencies of students.

(b) The evaluation/placement team shall have the responsibility to interpret and evaluate student data in such a way that will insure appropriate placement. The evaluation/placement team may require additional assessment before determining student placement. Placement may involve a trial period for at least one semester but not more than one year. Criteria for trial placement shall be established in guidelines established by the SCDE. Students whose progress within the gifted and talented programming at the end of trial placement is not deemed adequate by the evaluation/placement team may be withdrawn from the programming.

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(c) The evaluation/placement team will be responsible for developing appropriate written procedures for removing a student from the gifted and talented programming. The criteria for these procedures according to the programming model shall be established by the SCDE. Removal from the programming must be preceded by appropriate counseling with the student and conferences with the student's parents and teachers. Records of any assessment and evaluative measures and other student information must be maintained in a confidential manner.

(d) Students identified and served according to prior eligibility criteria will continue to be eligible for placement and funding provided their programming service meets the requirements herein. Any student entering the programming once these regulation amendments are effective shall be considered for placement based on the eligibility criteria herein.

C. Staff

1. Teacher Qualifications

(a) Teachers must hold valid teaching certificates appropriate to the grade level(s) or subject area(s) included in the programming.

(b) Each teacher of a state-funded gifted and talented course or class shall have completed a gifted and talented endorsement program approved by the SCDE. There are three levels of educator credentialing for gifted and talented: beginning endorsement, intermediate endorsement, and certification. The minimal credential level required will be established by the SCDE.

(1) Exception 1: Newly assigned teachers will have one year to meet gifted and talented endorsement requirements.

(2) Exception 2: Teachers who have a master's degree or higher in gifted education from an accredited Institution of Higher Learning may have this requirement waived upon approval of credentials by the SCDE.

2. Professional Development

Appropriate, data-driven and research-supported ongoing staff development activities in gifted and talented education shall be provided and documented annually as required in the annual reporting required by the SCDE.

D. Reporting

1. Districts will report to the SCDE information, which includes, but is not limited to, student eligibility, screening, and referrals. Districts will annually collect and maintain, district statistical data on (1) the number, by race, of students referred for evaluation for eligibility for gifted and talented education services; (2) the number, by race, of students determined eligible for services; (3) the number, by race, of students actually served during the school year; and (4) the number, by school, by grade, by race, by model, of students actually served during the school year through the required statewide database as designated by the SCDE.

2. Districts shall review annually the performance of gifted and talented students on the state-approved assessment, AP exams, IB exams, SAT, ACT, and similar college entrance tests. Districts shall summarize the performance of gifted and talented students on these assessments and report trend data to the SCDE annually. These data will be disaggregated demographically and reported annually to the General Assembly.

3. Official enrollment reports to be used for funding purposes shall be submitted at the end of the 135-day enrollment period and shall be adjusted by the 45-day enrollment period or the year receiving funding. The enrollment reports shall be submitted on forms to be furnished by the SCDE.

E. Funding

1. Allocation of Funds

The SCDE will annually calculate each district's allocation based on the number of gifted and talented students projected to be served in each district as it relates to the total of all such students in the state. Unobligated funds, which become available during the fiscal year (July 1-June 30) will be redistributed to serve additional eligible students.

2. Distribution of Funds

School districts will be authorized to expend allocated funds on students meeting the eligibility criteria of prior regulations and students meeting the eligibility criteria and being served in approved programming. Distribution of funds will be made periodically with a final adjustment occurring at the end of the 135-day attendance reporting period for regular academic programming.

3. Base Allocation for School Districts with Small Enrollments

School districts identifying and serving, according to the State Board of Education Regulations, forty students or less shall receive a minimum funding of \$15,000 for academic programming.

F. Expenditures and Accounting Procedures

1. State funds provided for gifted and talented programming must impact directly on students served in accordance with provisions of the State Board of Education Regulations. Accounting procedures shall conform to those outlined in the Financial Accounting Handbook issued by the SCDE. The entire allocation must be used directly for gifted and talented related expenditures.

2. A supplemental schedule shall be required in the school district's annual audit under the single audit concept.

III. ARTISTIC

A. Programming

1. Districts shall develop a written plan to include the following artistic requirements:

(a) differentiated curriculum, instruction, and assessment that maximize the potential of the identified students;

(b) support services that facilitate student learning and personalized education (e.g., assistive technology, guidance, artistic support, staff development, artistic competition, independent study, and online courses);

(c) programming models that facilitate the delivery of differentiated curriculum and instruction;

(d) a teacher-pupil ratio that fosters positive results;

(e) appropriate and sufficient time in instruction to assure that the goals and objectives of the programming are met; and

(f) systematic assessment of student progress and programming effectiveness relative to goals.

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2. To provide curriculum, instruction, and assessment that maximize the potential of the identified students, educational programming for the artistic gifted and talented students must reflect the following characteristics:

(a) content, process, and product standards that exceed the state-adopted arts standards for all students and that provide challenges at an appropriate level for the strengths of the individual students;

(b) goals and indicators that require students to demonstrate depth and complexity of knowledge, creative and critical thinking skills, and problem-solving skills;

(c) instructional strategies that accommodate the unique needs of gifted and talented learners;

(d) opportunities for global communication and research using available technologies; and

(e) evaluation of student performance and programming effectiveness as related to the goals of the programming submitted in the local gifted and talented five-year plan.

3. Programming Models

(a) Visual and performing arts programming may be offered during the regular school year or during the summer for grades one through twelve. Visual and performing arts programming shall focus on creative expression in one or more of the following areas: dance, theatre, music, and/or visual arts. A diversified arts programming encompassing the disciplines of dance, theatre, music, and visual arts may be offered in grades one through six. (A diversified programming is one in which students take a variety of disciplines, typically in a summer programming.) The programming models are in-school programming, after-school programming, summer programming, Saturday programming, and consortium programs. Combinations of the approved programming models are also acceptable.

(b) A school district may elect to serve students in any of the models through consortium agreement with other school districts.

4. Length of Time in Models

Academic School Year

(In-school, after-school, and Saturday Programming)

Grades	Minimum Minutes Per Year
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1-3	4500
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4-8	7200
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9-12	8100
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Summer Programming (30 days in length)

Saturday Programming (minimum 30 Saturdays)

Grades	Minimum Hours Per Day
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1-3	2 1/2 hours
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4-8	4 hours
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9-12	5 hours
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5. Teacher-Pupil Ratios: an appropriate teacher-pupil ratio fosters positive results. Districts should reference the most current edition of the *South Carolina Gifted and Talented Best Practices Manual* for further information.

B. Identification of Population to be Served

1. The purposes of identification are (1) to find students who display talent beyond that of their peers in one or more artistic areas (dance, music, theatre, and visual arts); (2) to assess the aptitudes, attributes, potential, interests, and artistic behaviors of each student; and (3) to evaluate each student for the purposes of referral.

2. Gifted and talented students may be found within any racial, ethnic, or socioeconomic group; within any nationality; within both genders; and within populations with physical disabilities, learning disabilities, or behavioral problems.

C. Identification/Selection is a three-step process, which consists of referral/recommendation, demonstration/audition/portfolio, and placement.

1. Referral Procedures

(a) Students may be referred by a teacher, administrator, parent, self, or a peer using a SCDE-approved instrument appropriate to the visual and performing arts area, to include creativity and expressive qualities. The referral should be used to identify students who have an aptitude for the arts and may benefit from intense exploration and in-depth study in one or more of the arts. The initial referral does not itself guarantee placement.

(b) Districts shall include the following procedures in the referral process:

(1) provide all parents/guardians with effective, written notice of the gifted and talented education programming, referral procedures, and eligibility requirements;

(2) implement processes for identifying artistically gifted and talented from all student populations;

(3) provide training/guidance regarding characteristics of the artistically gifted and talented for teachers and other district staff involved in the identification process;

(4) use referral criteria and procedures that are directly related to the purpose of the artistically gifted and talented programming; and

(5) reference the most current edition of the *South Carolina Gifted and Talented Best Practices Manual* for the referral process.

(c) Assessment for Eligibility

Districts shall establish a review team comprised of at least three individuals to include an arts teacher, an administrator, and a community person with experience in the arts. In the event all three categories cannot be represented, more than one member may be chosen from one of the three categories. The team shall ensure that all assessment instruments/measures are reviewed for bias and accurately assess the abilities/skills/potentials intended to be measured and, to the extent that subjective assessment criteria are used, that those individuals conducting the assessment are trained to ensure proper evaluation.

2. Recommendation Form

(a) A recommendation form, which may be combined with the referral form, consisting of a checklist to assist with identifying the gifted and talented artistic student will be completed by the dance teacher, the physical education teacher, the classroom teacher, the theatre teacher (or the classroom teacher in the

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elementary school or middle school if the middle school does not have a theatre teacher), the music teacher, or the visual arts teacher.

(b) A teacher should base responses to the checklist on student behaviors that were observed throughout the school year.

(c) Districts should refer to the most current edition of the *South Carolina Gifted and Talented Best Practices Manual* for recommendation forms and checklists.

3. Demonstration/Audition/Portfolio

(a) The demonstration/audition/portfolio should enable the evaluation-placement team to determine a student's artistic potential to function at a high level in one or more of the arts.

(b) The demonstration/audition/portfolio must also include either a student interview or questionnaire to assist the evaluation-placement team in determining suitability for placement. At the discretion of the district, guidelines may be established for electronic or other forms of demonstration/auditions/portfolio.

(c) Students will be rank ordered using results from the demonstration/audition/portfolio and the student interview or questionnaire.

(d) Parents of referred students may decide not to proceed with the demonstration/audition/portfolio.

4. Placement

(a) The placement of gifted and talented students should be the responsibility of the evaluation-placement team comprised of one member of the arts faculty or district arts staff, an administrator, and an additional member from the community who has expertise in the arts area for which the student has been referred. In the event all three categories cannot be represented, more than one member may be chosen from one of the three categories.

(b) The evaluation-placement team shall interpret and evaluate student data in such a way that will insure appropriate placement. The team may require additional assessment before determining student placement. Placement may involve a trial period for at least one semester but not more than one year. Students whose progress within the programming is not deemed adequate by the team may be withdrawn from the programming.

(c) The team will be responsible for developing appropriate written procedures for removing a student from the gifted and talented programming. Removal from the programming must be preceded by appropriate counseling with the student and conferences with the student's parents and teachers. Records of any assessment and evaluative measures and other student information must be maintained in a confidential manner.

D. Staff

1. **Teacher Qualifications for Visual and Performing Arts Programming:** Teachers must hold a valid teaching certificate appropriate to the grade level(s) or subject area(s) included in the programming. Professionals in the visual and performing arts may teach in the gifted and talented programming if serving in the programming under the supervision of the appropriate district personnel.

2. **Professional Development:** Appropriate, ongoing staff development activities related to serving gifted and talented students shall be provided by the district annually.

E. Reporting

1. Districts will report to the SCDE information that includes, but is not limited to, student eligibility and referrals. Districts will annually collect and maintain district statistical data on (1) the number, by race, of students referred for evaluation; (2) the number, by race, of students determined eligible for services; and (3) the number, by race, by school, by grade, by arts area, of students actually served during the school year.

2. Official enrollment reports shall be submitted annually on appropriate SCDE forms.

3. Districts will submit a local gifted and talented programming plan every five years and delineate progress on these plans annually. The SCDE will review the plans annually and provide written feedback to the districts. The SCDE will provide a format and template for the plans.

F. Funding

Distribution of Funds: School districts will be authorized to expend allocated funds on students meeting eligibility criteria and being served in approved programming. Programming initiated prior to June 30 will be funded from that fiscal year's allocation.

G. Expenditures and Accounting Procedures

1. State funds provided for gifted and talented programming must impact directly on students served in accordance with provisions of the State Board of Education Regulations. Accounting procedures shall conform to those outlined in the Financial Accounting Handbook issued by the SCDE. The entire allocation must be used directly for gifted and talented related expenditures.

2. A supplemental schedule shall be required in the school district's annual audit under the single audit concept.

Fiscal Impact Statement:

No additional state funding is requested. The SCDE estimates that no additional costs will be incurred by the State and its political subdivisions in complying with the proposed revisions to Regulation 43-220.

Statement of Rationale:

The proposed changes to the regulation are needed to clarify and update the regulation regarding the education of academically and artistically gifted and talented students.

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Document No. 4261

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60(1), (3), and (6) (2004); 59-29-100 (2004), and 20 U.S.C. 6301 et seq. (2001)

43-259. Graduation Requirements

Synopsis:

Proposed Amendments to State Board of Education (SBE) Regulation 24 S. C. Code Ann. Regs. 43-259, Graduation Requirements. These regulations provide guidance to school districts and other eligible adult education providers. The name of the responsible office needs to be changed, awarding of high school units of credit guidelines needs to be revised, and policies for the GED examination need revision. The graduation requirements for Grades 9–12 have been moved to Regulation 43-234. Previously, the office responsible for adult education activities was entitled Office of Adult and Community Education. The office name was revised removing the word Community. Guidelines for the re-testing of GED candidates were moved to the SCDE GED Testing Office Policies and Procedures Manual. Revised language regarding the transfer of high school credits earned in adult education back to the regular high school is needed.

Notice of Drafting for the proposed amendments was published in the *State Register* on October 28, 2011.

Instructions:

This regulation will replace “43-259. Graduation Requirements” in its entirety.

Text:

43-259. Adult Education

I. The State High School Equivalency Diploma

The State Board of Education (SBE) recognizes the high-school level General Educational Development (GED) test battery and will issue a state high school equivalency diploma to eligible candidates who successfully complete the tests. The SBE authorizes the administration of the GED Tests by the South Carolina Department of Education (SCDE) under policies established by the SBE and the Commission on Educational Credit and Credentials of the American Council on Education and procedures established by the GED Testing Service in Washington, D.C.

A. Eligibility Requirements for Equivalency Diploma Candidates

1. Service Personnel and Veterans

To be eligible for a state high school equivalency diploma, the candidate must be seventeen years of age or older and must be either a resident of South Carolina or a former resident whose most recent elementary or secondary school attendance was in South Carolina.

2. General Adult Population

a. To be eligible for a state high school equivalency diploma, the candidate must be seventeen years of age or older, must not be currently enrolled in high school, and must either be a current resident of South Carolina or a former resident whose most recent elementary or secondary school attendance was in South Carolina.

b. A candidate for a state high school equivalency diploma who is seventeen or eighteen years of age must submit a "Verification of School Withdrawal" form completed by either the school principal or attendance supervisor of the last South Carolina school he or she attended or from the district superintendent of the school. The "Verification of School Withdrawal" form must verify the candidate's date of birth and the date of his or her last attendance at the school. In the event that the last school he or she attended was outside South Carolina, a person seventeen or eighteen years of age may either submit a letter verifying his or her date of birth and the date of last attendance in school or submit a letter from the superintendent of schools in the district in which he or she currently resides indicating that the candidate is not enrolled in any schools within the school district. A copy of the candidate's driver's license, state-issued identification card, or birth certificate must accompany the letter. Verification letters are to be submitted with the application for testing.

c. A candidate over the age of eighteen who has been enrolled in high school during the current school year must submit a "Verification of School Withdrawal" form completed by either the school principal or attendance supervisor of the last South Carolina school he or she attended or from the district superintendent. The "Verification of School Withdrawal" form must verify the candidate's date of birth and the date of his or her last attendance at the school.

3. Juvenile Offenders

Certain juvenile offenders who are under the jurisdiction of the State Department of Juvenile Justice may be granted an exception to the requirement that in order to be eligible for a state high school equivalency diploma, a candidate must be seventeen years of age or older and not be currently enrolled in high school during the current school year.

For a juvenile offender to qualify for this exception, the following criteria must be met:

- a. The juvenile is at least sixteen years of age.
- b. The juvenile is under the jurisdiction of the family court based on an adjudication of delinquent behavior and must be committed to a juvenile correctional institution or committed to participate in community-based alternative programs under the jurisdiction of the Department of Juvenile Justice.
- c. The family court certifies that it is in the best interest of the juvenile for him or her to be exempted from the public school compulsory attendance law.
- d. The juvenile's enrollment in public school or completion of a community-based alternative program would not be feasible upon his or her release from a juvenile correctional institution either because it is necessary that he or she find immediate employment or because he or she will immediately enroll in postsecondary education.
- e. The juvenile was tested using the official GED practice tests and scored a minimum of 2200.

B. Passing Score Requirements

1. Eligible candidates who were initial examinees before July 1, 1991, were awarded a state high school equivalency certificate if they attained an average standard score of 45 or above for the five tests in the GED battery. The South Carolina high school equivalency certificate was not awarded after July 1, 1995.

2. Eligible candidates who were examinees after July 1, 1991, were awarded a state high school equivalency diploma if they attained a minimum-standard score of 35 on each of the five tests in the GED battery and an average standard score of 45 or above for the five tests.

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3. Eligible candidates who were examinees after January 1, 1997, were awarded a state high school equivalency diploma if they attained a minimum-standard score of 40 on each of the five tests in the GED battery and an average standard score of 45 or above for the five tests.

4. Eligible candidates who are examinees after January 1, 2002, will be awarded a state high school equivalency diploma if they attain a minimum standard score of 410 on each of the five tests in the GED battery and an average standard score of 450 or above for the five tests.

C. Testing and Credential Application Procedures

1. GED Testing in South Carolina

a. The GED tests may be scheduled and administered at adult education centers, technical education centers, and other locations approved by the director of the SCDE's Office of Adult Education.

b. Eligible candidates must submit an application to the SCDE's GED Testing Office, or an approved GED Testing Center, and pay the required fee set by the SCDE for the testing service and the diploma.

c. Official score reports will be provided to initial examinees only after they complete all five tests in the GED test battery.

d. Nonresident individuals who are living temporarily in South Carolina may be permitted to take the GED Tests in South Carolina if they meet minimum age requirements and are not enrolled in high school. Nonresident individuals will not be awarded a state high school equivalency diploma unless their most recent elementary or secondary school of attendance was in South Carolina. Nonresidents must submit an application for testing services to the SCDE's GED Testing Office or an approved GED test center and must pay the required fee set by the SCDE to cover the full costs of the testing and the score report.

e. Guidelines for the re-testing of GED candidates are outlined in the SCDE GED Testing Office Policies and Procedures Manual.

2. GED Testing Outside South Carolina

Eligible candidates tested outside South Carolina must submit a diploma application to the SCDE's GED Testing Office and must pay the required fee to cover the costs of the diploma. Applicants must arrange for official score reports to be sent to the chief examiner in the SCDE's GED Testing Office. Score reports will be accepted as official only when sent directly by an official GED Testing Center, by the transcript service of the Defense Activity for Nontraditional Education Support (DANTES), or by the GED Testing Service in Washington, D.C. Eligible candidates who are tested outside of South Carolina must meet the state's passing score requirements in order to receive a state high school equivalency diploma.

II. Adult Education: High School Diploma Program

A. Graduation Requirements

1. The student must earn a total of 24 prescribed units of credit and pass the exit examination to earn a state high school diploma. The unit requirements are distributed as follows:

Unit Requirements	
English/language arts	4.0
Mathematics	4.0
Science	3.0
U.S. History and Constitution	1.0

Economics	0.5
U.S. Government	0.5
Other social studies course(s)	1.0
Computer science (including keyboarding)*	1.0
Electives	9.0

24.0 total

* Keyboarding may count up to one-half unit of the computer science requirement.

2. A student may transfer credit earned in the adult education program to a secondary school to count toward the units of credit required for a state high school diploma earned through the regular course of study at a high school, if for each unit being transferred, the student has spent a minimum of 120 hours in class time in that subject at that level and the teacher was properly certified to teach the course.

3. Membership in an adult education program shall be limited to individuals eighteen years of age or older who have left the elementary or secondary school, except when the local school board assigns students under the age of eighteen years who are not officially in membership in a regular school. Students under eighteen may be assigned to an adult education program when they exhibit either an unusual educational need or physical, social, or economic problem that can be served more effectively by the adult education program. No student under the age of sixteen may be assigned to the adult education program for any reason.

4. No student shall be graduated from the adult education program prior to the time that he or she would have graduated from a regular high school unless written approval is granted by the high school principal and the SCDE's Office of Adult Education. For a student to be eligible to receive a state high school diploma, he or she must complete one semester in residence (i.e., through actual attendance in the adult education program). This semester in residence is a prerequisite for the state high school diploma and may not be waived. For the purposes of adult education programs, a semester in residence is defined as follows: a minimum of 60 hours of classroom attendance for a student needing only 1 unit to graduate, and a minimum of 30 hours of classroom attendance for a student who needs only one-half unit to graduate. Completion of a one-half unit or 1 unit via the South Carolina Virtual School Program (SCVSP) while enrolled in an adult education program will satisfy the semester-in-residence requirement. A student who enters an adult education program needing only to pass one or more subtests of the state exit examination must attend a minimum of 12 hours in classroom attendance prior to taking the state exit exam.

5. The student must complete a study of and pass an examination on the provisions and principles of the United States Constitution, the Declaration of Independence, the *Federalist* papers, and American institutions and ideals.

6. A student may earn no more than 8 units of credit per school year in one or any combination of the following ways:

a. classroom attendance (maximum of 6),

b. 3 units of credit per year while enrolled in adult education and a total of 12 units during his or her high school and/or adult education career via the South Carolina Virtual School Program (SCVSP),

c. passing approved distance learning courses (6 units maximum) during high school and/or adult education.

B. Provisions for Granting Course Credit

1. Course credit shall be accepted when official transcripts are received from schools that are accredited by a state or by one of the following: New England Association of Colleges and Schools, the Middle States

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Association of Colleges and Schools, the Southern Association of Colleges and Schools, the North Central Association of Colleges and Schools, the Western Association of Colleges and Schools, or the Northwest Association of Colleges and Schools.

2. Credit for distance learning courses shall be accepted from any state-approved virtual learning program. Credit for courses completed through non-state-approved distance learning may be accepted when the quality of the work completed is validated by a subject-matter examination. Credit shall be accepted from the list of state "Recommended Online and Recovery Classes." Credit shall only be accepted from institutions validated by the SBE or accredited by one of the following: New England Association of Colleges and Schools, the Middle States Association of Colleges and Schools, the Southern Association of Colleges and Schools, the North Central Association of Colleges and Schools, the Western Association of Colleges and Schools, or the Northwest Association of Colleges and Schools.

3. High school diploma credit earned in an adult education learning laboratory may be granted only by a teacher certified in the specific area in which credit is to be awarded. If the adult education learning laboratory teacher is not certified in the specific area in which the student is seeking credit, another currently employed adult education teacher that is certified in the specific area may review the student's work and award the unit of credit on that basis.

C. Approved Programs and Granting of Credit

No credit toward a state high school diploma shall be granted to any adult education student unless the program has been officially approved in writing by the Office of Adult Education and the Office of Federal and State Accountability at the SCDE. Program-related requirements include, but are not limited to, the following:

1. Each district must provide properly certified administrative, teaching, and supervisory staff for the adult education program. Staff members may be either full-time or part-time, according to the size of the program.

2. Each director must either be certified in one of the acceptable areas of certification for an adult education director or hold both an advanced degree in the field of adult education and a South Carolina teaching certificate.

3. Each adult education program must have a director (full-time or part-time).

4. Each center supervisor or program coordinator must either meet the same qualifications for certification as set forth in item 2 above for adult education directors or have a master's degree or a bachelor's degree and five years of adult education experience.

5. Each adult education teacher must be properly certified and meet the appropriate federal statutory requirements.

6. Each adult education high school subject-area teacher must be properly certified and meet appropriate federal statutory requirements to teach the subject area in which he or she is assigned to teach.

7. Each adult learning laboratory teacher must be properly certified in an approved subject area and meet the appropriate federal statutory requirements.

8. Any staff member who is assigned duties in a subject for which he or she is not properly certified must hold a valid teaching credential, must have completed 12 semester hours of credit in the assigned subject, and must have obtained an out-of-field permit in that subject from the Office of Educator Certification. The staff member must earn 6 semester hours toward proper certification each year for renewal of the out-of-field

permit. After June 30, 2006, out-of-field permits will no longer be issued to teachers who teach core academic subjects as specified by the appropriate federal statutory requirements. These core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts. The Director of the Office of Adult Education may waive the requirement of properly certified teachers in instances of critical needs. Critical needs may include but are not limited to the following: there is no certification available in the particular subject area; there is no certified teacher available because of the location of the class or meeting time of the class. Non-certified teachers must work under the supervision of an on-site, properly certified teacher. Non-certified teachers may not provide instruction in courses awarding Carnegie units of credit.

9. In order to earn credit toward a state high school diploma earned through an adult education program, a student must attend class a minimum of 60 hours to receive consideration for a unit of high school credit and 30 hours for consideration for one-half unit of high school credit. Actual course credit will be awarded only after the student has completed all course requirements. Completion of a one-half unit or one unit via the South Carolina Virtual School Program (SCVSP) while enrolled in an adult education program will satisfy the attendance requirement.

10. The maximum student membership in an adult education class shall be 30 students.

11. Applications for innovative-approach programs must be submitted to the SCDE's Office of Adult Education when a departure from certain established standards is necessary for the implementation of the new program. Requests for prior approval must be made to the Office of Adult Education and must be approved by the SCDE's Office of Federal and State Accountability.

12. An accurate record of the attendance and achievements of each student must be kept and must be stored in locked, fireproof filing cabinets or vaults or in a secure database with backup copies.

13. Students enrolled in the high school completion program must be given access to appropriate library facilities or the Internet.

Fiscal Impact Statement:

It is estimated that there will be no fiscal impact.

Statement of Rationale:

The proposed changes are needed in order to correct the office name and to move the regular high school graduation requirements to a separate regulation. This regulation now only applies to adult education programs.

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Document No. 4309
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 (2004) and 59-40-10 et seq. (2004 and Supp. 2010); Public Law 111–117, December 16, 2001, Consolidated Appropriations Act, 2010

43-601. Procedures and Standards for Review of Charter School Applications

Synopsis:

This regulation sets forth the standards for the review of charter school applications. The United States Department of Education (USED) requires that charter schools and authorizing agencies adhere to certain assurances throughout the term of the charter. Charter School Program (CSP) Assurances 3(a) and 3(b) govern the manner in which charter schools must demonstrate academic and financial responsibility. We are proposing to amend R 43-601 to require that charter schools submit annual audits to their authorizer and that academic performance becomes the most important factor to consider for renewing or revoking a charter.

The Notice of Drafting was published in the *State Register* on August 24, 2012.

Instructions:

Print Regulation 43-601 as shown below.

Text:

43-601. Procedures and Standards for Review of Charter School Applications.

I. DEFINITIONS

(A) A “charter school” means a public, nonreligious, nonhome-based, nonprofit corporation forming a school that operates by sponsorship of a public school district, the South Carolina Public Charter School District, or a public or independent institution of higher learning, but is accountable to the board of trustees, or in the case of technical colleges, the area commission, of the sponsor which grants its charter. Nothing in this chapter prohibits charter schools from offering virtual services pursuant to state law and subsequent regulations defining virtual schools.

(B) “Applicant” means the person who or nonprofit corporate entity that desires to form a charter school and files the necessary application with the South Carolina Public Charter School District Board of Trustees, the local school board of trustees in which the charter school is to be located, or the board of trustees or area commission of a public or independent institution of higher learning. The applicant also must be the person who or the nonprofit corporate entity that applies to the Secretary of State to organize the charter school as a nonprofit corporation.

(C) “Sponsor” means the South Carolina Public Charter School District Board of Trustees; the local school board of trustees in which the charter school is to be located, as provided by law; a public institution of higher learning, as defined in Section 59-103-5; or an independent institution of higher learning, as defined in Section 59-113-50, from which the charter school applicant requested its charter and which granted approval for the charter school’s existence. Only those public or independent institutions of higher learning, as defined in this subsection, who register with the South Carolina Department of Education may serve as charter school sponsors, and the department shall maintain a directory of those institutions. The sponsor of a charter school is the charter school’s local education agency (LEA) and a charter school is a school within that LEA. The sponsor retains responsibility for special education obligations and shall ensure that students enrolled in its charter schools are served in a manner consistent with LEA obligations under applicable federal, state, and local law.

(D) “Charter committee” means the governing body of a charter school formed by the applicant to govern through the application process and until the election of a board of directors is held. After the election, the board of directors of the corporation must be organized as the governing body and the charter committee is dissolved.

(E) “Certified teacher” means a person currently certified by the State of South Carolina to teach in a public elementary or secondary school or who currently meets the qualifications outlined in Sections 59-27-10 and 59-25-115.

(F) “Noncertified teacher” means an individual considered appropriately qualified for the subject matter taught and who has completed at least one year of study at an accredited college or university and meets the qualifications outlined in Section 59-25-115.

(G) “Charter school contract” means a fixed term, renewable contract between a charter school and a sponsor that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.

(H) “Resident public school” means the school, other than a charter school, within whose attendance boundaries the charter school student’s custodial parent or legal guardian resides.”

(I) “Local school district” means any school district in the state except the South Carolina Public Charter School District and does not include special school districts.

(J) “Scholastic year” means the year that begins on the first day of July of each year and ends on the thirtieth day of June following.

II. APPLICATIONS TO BE CONSIDERED BY THE CHARTER SCHOOL ADVISORY COMMITTEE

(A) Review of Applications

All charter school applications must be reviewed by the Charter School Advisory Committee to determine compliance with the standards established below. The applications submitted to the Advisory Committee must demonstrate compliance with each standard. If the Advisory Committee determines that the application meets the standards set forth in this regulation, it must forward the application to the school district or institution of higher education from which the applicant is seeking sponsorship. The Advisory Committee must make a recommendation to the school district or institution of higher education, to either approve or deny the charter.

(B) Application Timeline

Applications must be submitted to the Advisory Committee on or before July 1 to ensure completion of the review process by December 1 of the year preceding the opening of the charter school. If a charter, to include a conditional charter, is not issued by December 1, the opening will be delayed one scholastic year. Charter applications must propose school openings that are consistent with South Carolina’s definition of a scholastic year. The applicant must submit the application to their selected sponsor on or before the date that the application is submitted to the CSAC for review. Evidence of this act must accompany the application to the CSAC.

(C) Proposed Contract

A contract between the charter school and the sponsor must be executed and must reflect all provisions outlined in the application as well as the roles, powers, responsibilities, and performance expectations for each party to the contract. A contract must include the proposed enrollment procedures and dates of the enrollment period of the charter school. All agreements regarding the release of the charter school from school district

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policies must be contained in the contract. The Department of Education shall develop a contract template to be used by charter schools and the sponsor. The template must serve as a foundation for the development of a contract between the charter school and the sponsor.

(D) Requests for Additional Information

If the Advisory Committee determines that an application does not meet one or more of the standards, it may request clarification or additional information from the applicant or the district. The Advisory Committee has the authority to incorporate this additional information into the application.

III. CHARTER SCHOOL APPLICATION STANDARDS

(A) Mission Statement

The charter school application must include a mission statement that must be clear and must support the intent of the Charter Schools Act:

- (1) The purpose of the charter school must be clearly stated.
- (2) The purpose of the charter school must be consistent with the intent of the Charter Schools Act:
 - (a) S.C. Code Ann. Section 59-40-20 (Supp. 2007):

This chapter is enacted to:

- (i) improve student learning;
- (ii) increase learning opportunities for students;
- (iii) encourage the use of a variety of productive teaching methods;
- (iv) establish new forms of accountability for schools;
- (v) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site; and
- (vi) assist South Carolina in reaching academic excellence.
- (vii) create new, innovative, and more flexible ways of educating children within the public school system, with the goal of closing achievement gaps between low-performing student groups and high-performing student groups.”

(b) S.C. Code Ann. Section 59-40-30 (Supp. 2007):

The purpose of the Charter Schools Act is to create a legitimate avenue for parents, teachers, and community members to take responsible risks and create new, innovative, and more flexible ways of educating all children within the public school system.

(B) Admissions Policies and Procedures

The application must include a description of the charter school’s admission policies and procedures:

(1) The admission policies and procedures must reflect compliance with all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services.

(2) The admission policies and procedures must provide that, subject to space limitations, the charter school admits all children who are eligible to attend public school in the school district where the charter school is operating, except in the case of an application to create single-gender schools. For schools within the South Carolina Public Charter School District, or institutions of higher education, the enrollment is open to all children who are eligible to attend public school in the state. If the number of applications exceeds the capacity of a program, class, grade level, or building, students must be accepted by lot, as specified in federal or state guidance. There is no appeal to the local school board of trustees.

(3) The policies and procedures must not limit or deny admission or show preference to any individual group except in the case of an application to create single-gender schools; however, priority, which may not exceed twenty percent of the enrollment of the charter school for the categories in (b) and (c) below, may be given to

(a) a sibling of a pupil currently enrolled or attending, or who within the last six years attended the school for at least one complete academic year,

(b) children of charter school employees, and

(c) children of the charter school committee.

(4) Admission priority must be given to all students enrolled in a school undergoing a conversion.

(5) The policies and procedures must include provisions to grant or deny permission for students to attend the charter school if they reside in a school district other than the one where the charter school is located. This section is not applicable to schools authorized by the South Carolina Public Charter School District or institutions of higher education.

(a) In-district students will be given priority.

(b) Out-of-district student enrollment must not exceed 20 percent of the total enrollment of the charter school without the approval of the receiving district board of trustees. The sending district must be notified immediately of the transferring students. Out-of-district students must be considered on the basis of the order in which their applications are received.

(c) If the 20 percent of the out-of-district students are from one school district, then the sending district must concur with any additional students' transferring from that district to attend the charter school.

(6) If a charter school denies admission to a student for reasons other than the results of a lottery, the student may appeal the denial to the sponsor. The decision will be binding on the student and the charter school.

(C) Support for Formation of a Charter School

The application must include evidence that an adequate number of parents, teachers, pupils, or any combination of them support the formation of the charter school:

(1) The charter committee must include at least one teacher.

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(2) The application must include documentation of support of parents, teachers, pupils, or any combination of them that demonstrates that the school would likely meet enrollment expectations. A list of prospective or tentatively enrolled students or prospective employees is not required. The application must set forth the anticipated enrollment for the school at each grade level.

(3) Evidence of the interest level of parents, teachers, pupils, or any combination of them must be provided in the application and may include, but not be limited to, documentation of attendance and support at community meetings and survey results.

(4) If the social situation of the proposed school's targeted population precludes establishing parental support, evidence should demonstrate support from community groups and agencies, including letters from these entities that specify the level of their commitment to the school.

(5) In the case of a proposal to convert a school, the application must also include evidence that two-thirds of the faculty and instructional staff voted to support the filing of the application and evidence that two-thirds of the voting parents or legal guardians voted to support the filing of the application. Parents or guardians shall have one vote for each of their children enrolled in the school (i.e., each student may be represented by only one vote). All parents or legal guardians of students enrolled in the school must be given the opportunity to vote.

(D) Educational Program, Goals, Objectives, Pupil Achievement Standards, and Curriculum

The charter school's educational program, goals, objectives, pupil achievement standards, and curriculum must be clearly described in the application and must meet or exceed any student academic standards adopted by the school district in which the charter school is located. The application must demonstrate that the educational program is designed to enable each student to achieve these standards.

(1) The goals and objectives must be clearly stated and must provide enough detail to indicate specific outcomes.

(2) The student population must be identified by grade level, unique educational needs, and projected enrollment. A converted charter school must offer the same grades, or nongraded education appropriate for the same ages and education levels of pupils, as offered by the school immediately before conversion and may also provide additional grades and further educational offerings.

(3) The educational goals must reflect the school's mission statement.

(4) Strategies to accomplish the educational goals must be included.

(5) The school calendar must be at least 180 instructional days.

(6) Academic standards must identify what students will achieve at each grade level and must meet or exceed the South Carolina curriculum standards, as adopted by the State Board of Education. A correlation or other documentation must be included or process identified to ensure that the school will provide an instructional program that meets or exceeds the academic standards.

(7) If the charter school plans to offer the South Carolina State High School Diploma, the application must set forth the method for meeting the state requirements for the High School Diploma, including, but not limited to, course unit requirements, seat time for Carnegie Units, as applicable, and passage of the required examinations.

(8) Provisions must be included for determining if all students are achieving or attaining the standards, including the methods by which student performance information will be gathered and monitored.

(9) The application must include an explanation as to how the school will comply with the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act.

(E) Student Assessment

The application must include a description of the charter school’s plan for evaluating pupil achievement and progress toward accomplishment of the school’s achievement standards. The school’s evaluation plan must include state-mandated assessments and other assessments as well as the timeline for meeting these standards and the procedures to be taken if pupil achievement falls below the standards.

(1) Methods for evaluating pupil achievement at each grade level must be specified. These methods must include but should not be limited to the state assessments.

(2) The timeline must identify the expected yearly progress toward meeting the school’s long-term performance goals. The expected yearly progress must meet or exceed the expectation of the federal accountability system recognized by the U.S. Department of Education.

(3) Provisions must be included to address the needs of students who do not perform at acceptable levels of proficiency in the statewide assessment program.

(F) Budget and Accounting System

The application must include a plan for the charter school that is economically sound and in compliance with state and federal requirements:

(1) A budget for the term of the charter must be included. The charter school must use the same budget codes as are required of school districts. The budget must be based on documented State Department of Education estimated revenues in accordance with the allocations in S.C. Code Ann. Section 59-40-140(A)-(C). If the budget includes funds acquired through grants, the application must present evidence that the funds, including federal public charter school start-up grants, are likely to be received, and the terms of the projected grants must be explained. Anticipated expenditures must include all costs associated with initial implementation and continued operation, including but not limited to instructional and support costs for:

- (a) salaries,
- (b) employee benefits,
- (c) purchased services (includes insurance and transportation),
- (d) supplies and materials (includes noncapital equipment), and
- (e) capital outlay.

(2) The application must include a description of the annual audit of the financial and administrative operations of the charter school, including evidence that the charter school will adhere to the accounting, auditing, and reporting procedures and requirements that are applied to public schools operating in South Carolina. Accounting, auditing, and reporting requirements must be in compliance with the principles set forth in the following publications, published annually by the Office of Finance:

- (a) *Single Audit Guide*,
- (b) *Financial Accounting Handbook*, and

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(c) *Funding Manual.*

(3) The application must include documentation regarding the pupil accounting system, including evidence that the charter school will adhere to the procedures and regulations that are applied to public schools operating in South Carolina. Pupil accounting and reporting requirements must be in compliance with the *S.C. Pupil Accounting Manual* and the *S.C. Student Accountability Manual*, published by the State Department of Education.

(4) The application must include documentation of any negotiated services provided by the school district, including but not limited to financial accounting, payroll services, food services, custodial services, maintenance, curriculum, library and media services, and warehousing.

(G) Governance and Operation

The application must include a description of the governance and operation of the charter school:

(1) The charter school must be organized as a South Carolina non-profit corporation and the application must include a copy of the non-profit corporation's articles of incorporation and bylaws.

(2) The board of directors must consist of seven or more individuals with the exact number specified in or fixed in accordance with the bylaws. Members of a board of directors may serve a term of two years, and may serve additional terms. A choice of the membership of the board must take place every two years. Fifty percent of the members of the board as specified by the bylaws must be individuals who have a background in K–12 education or in business, and the bylaws of the charter school also must provide for the manner of selection of these members. In addition, at least 50 percent of the members of the board as specified by the bylaws must be elected by the employees and the parents or guardians of students enrolled in the charter school. Parents or guardians shall have one vote for each student enrolled in the charter school. All members must be residents of the State of South Carolina. A person who has been convicted of a felony must not be elected to a board of directors. If the board of directors consists of an odd number of members, the extra member must be an individual who has a background in K–12 education or in business;

(3) The board of directors must assume the following responsibilities:

(a) employing and contracting with teachers and nonteaching employees;

(b) ensuring that teachers, whether certified or noncertified, undergo the background checks and other investigations required for certified teachers, as provided by law, before they may teach in the charter school;

(c) contracting for other services;

(d) developing pay scales, performance criteria, and discharging policies for its employees;

(e) deciding all other matters related to the operation of the charter school, including budgeting, curriculum, and operating procedures; and

(f) ensuring that the charter school will adhere to the same health, safety, civil rights, and disability rights requirements as are applied to all public schools operating in the same school district.

(4) The application must include a description of the administrative structure of the charter school, including the roles and responsibilities of each administrative staff member.

(5) Evidence of the nature and extent of parental, community, and professional educator involvement in the governance and operation of the school must be provided.

(6) Evidence must be provided that the charter school and its governing body will comply with the Freedom of Information Act. Such evidence may include the bylaws of the nonprofit corporation, which must be established prior to application.

(H) Administrative and Teaching Staff

The charter school must employ administrators and teachers in a manner consistent with the Charter Schools Act:

(1) Part-time noncertified teachers must be considered pro rata in calculating staff percentages based on the hours which they are expected to teach.

(2) A noncertified teacher must be appropriately qualified for the subject matter taught, must have completed at least one year of study at an accredited college or university, and must meet the qualifications outlined in S.C. Code Ann. Section 59-25-115.

(3) A certified teacher must hold current certification by the State of South Carolina to teach in a public elementary, middle, or secondary school.

(I) Racial Composition

The application must describe how the charter school intends to ensure that the enrollment of the school is similar to the racial composition of the school district or to the targeted student population the charter school proposes to serve and must also provide assurance that the school complies with any school district desegregation plan or order in effect:

(1) The application must demonstrate timely, fair, and realistic policies and procedures for recruiting, registering, and admitting students that reflect the racial composition of the school district or the targeted school population.

(2) The proposed procedures and policies must reflect an understanding of the racial composition of the district and the targeted student population.

(3) To ensure compliance with a desegregation plan or order, the charter school applicant should take the following steps and provide documentation that these steps were taken in its application:

(a) request and receive a letter from the district indicating whether the school will be subject to any desegregation plan or order;

(b) secure a copy of the desegregation plan or order if the school is subject to such;

(c) determine and demonstrate that the charter school's policies and procedures are in compliance with the desegregation plan or order;

(d) request and receive a letter from the district that indicates whether the charter school's proposed policies and procedures are in compliance with any desegregation plan or order in effect in the district or whether clarification must be received from the Office for Civil Rights.

(J) Transportation

The application must include a description of how the charter school intends to meet the transportation needs of its pupils:

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(1) If the charter school will provide transportation by school bus, the application must include a plan that complies with the state requirements for drivers and training and the state safety requirements for school buses.

(2) If the lack of transportation is preventing a child from attending school, the charter school must provide or facilitate transportation for that student.

(3) If the charter school intends to contract with the district or a third party for transportation services, a description of those services and a proposed contract must be provided in the application.

(4) A charter school is not required to provide or facilitate transportation for out-of-district students.

(K) Facilities and Equipment

The application must include a description of the building, facilities, and equipment and an explanation as to how they will be obtained:

(1) Facilities Identified in Application

(a) If a facility suitable for use by the charter school is identified at the time of application, the application must provide the following information with regard to the facility that the charter school intends to occupy:

(i) the address of the facility;

(ii) a description of the facility;

(iii) a floor plan of the facility, including a notation of its size in square footage;

(iv) the name and address of the owner of the facility; and

(v) a copy of the proposed lease or rental agreement if the facility will be leased or rented.

(b) If the facility that the charter school will occupy is being used as a public school at the time of application, the application must specify the name and location of that school and must include documentation setting forth the specific days and times during which the charter school is authorized to use that facility.

(c) The application must either demonstrate that the proposed facility is in compliance with requirements set forth in the South Carolina School Facility Planning and Construction Guide for charter school occupancy or must provide a description of that facility and must demonstrate that it will meet the requirements:

(i) A certificate of occupancy or a letter from the Office of School Facilities stating that the facility meets the appropriate codes is adequate to show compliance with this standard with regard to school facilities.

(ii) If a certificate of occupancy is not issued or cannot be obtained at the time of application, the application must provide evidence that the charter school committee is working with an architect and/or the Office of School Facilities to correct any deficiencies in the facility.

(2) Facilities Not Identified in Application

If the charter school has not identified a suitable facility, the application must specify a plan for obtaining such a facility and must include

- (a) a description of the facility needs,
 - (b) a statement as to whether an existing facility will be remodeled or a new facility will be built, and
 - (c) a schedule for completing or obtaining a suitable facility and, if applicable, a description of and timeline for any plan to raise funds for completing or obtaining the facility.
- (3) The application must include a description of the equipment that will be used to support the proposed curriculum and an explanation as to how the equipment will be obtained.

(L) Employee Relations

The application must explain the relationship that will exist between the charter school and its employees, including evaluation procedures:

- (1) The application must include a description of the process that will be used to advertise for, select, and employ instructional staff and other employees.
- (2) The procedure for the evaluation of teachers of the charter school must be outlined in the application.
 - (a) The charter school may choose to use the ADEPT (Assisting, Developing, and Evaluating Professional Teaching) program. If ADEPT is to be used, the school must meet all requirements of the program.
 - (b) If the charter school selects another method of evaluation, that method must be explained with adequate detail. Teachers with Initial Teaching Certificates in those schools can advance to a renewable Limited Professional Teaching Certificate but cannot advance to a full Professional Teaching Certificate.
- (3) The application must explain how the terms and conditions of employment will be addressed with affected employees.

(M) Grievance and Termination Procedures

The charter school must have a reasonable grievance and termination procedure for its employees:

- (1) The charter school may, with agreement from the sponsor, adopt the procedures for the employment and dismissal of teachers outlined in S.C. Code Ann. Section 59-25-410 et seq. (1990).
- (2) If the charter school does not adopt procedures for the employment and dismissal of teachers outlined in S.C. Code Ann. Section 59-25-410 et seq. (1990), the charter school must establish employment and termination procedures that provide for notice and a right to a hearing before the governing board.
- (3) The charter school application must include grievance or termination procedures for paraprofessionals and other staff.
- (4) Teachers and other staff members who are employed at a public school that converts and who desire to continue to teach or work at the converted school may do so but will remain employees of the local school district with the same compensation and benefits including any future increases.

(N) Student Conduct, Rights, and Responsibilities

The charter school application must include a policy governing student conduct, student rights and responsibilities, and student discipline standards and procedures:

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(1) The charter school may adopt the district's policy on student conduct and discipline.

(2) If the charter school does not adopt the district's policy on student conduct and discipline, the charter school application must include a policy that sets forth clear expectations for student conduct.

(3) The policy must set forth disciplinary actions to be taken by the administration for breaches of the student conduct policy.

(4) The application must set forth an appeal process for students recommended for expulsion that includes a right to appeal a decision to the charter school board.

(5) The application must set forth an assurance that the charter school will comply with S.C. Code Ann. Section 59-63-235 (Supp. 2001), which provides for the expulsion of any student who brings a firearm to school.

(6) The application must include an assurance that the charter school will comply with the Family Education Rights and Privacy Act (20 U.S.C. Section 1232).

(7) The application must contain the explanation of the policies with regard to student conduct, rights, and responsibilities that will be given to parents and students at the beginning of the school year.

(O) Indemnification

The charter school must assume the liability for the activities of the charter school and must agree to indemnify and hold harmless the school district, its servants, agents, and employees from any and all liability, damage, expense, causes of action, suits, claims, or judgments arising from injury to persons or property or otherwise that arises out of the act, failure to act, or negligence of the charter school, its agents and employees, in connection with or arising out of the activity of the charter school.

(P) Insurance

The application must include a description of the types and amounts of insurance coverage to be obtained by the charter school. The application must address, but is not limited to, the following types of insurance: workers' compensation, liability, property, indemnity, and automotive.

(1) The application must include a description of workers' compensation insurance and amounts and a statement from a South Carolina licensed insurance company or the state insurance reserve fund setting out the charter school applicant's ability to secure the insurance and an estimate of the cost of the insurance.

(2) The application must include a description of liability insurance and the amounts to be obtained by the charter school and a statement from a South Carolina licensed insurance company or the state insurance reserve fund setting out the charter school applicant's ability to secure the insurance and an estimate of the cost of the insurance. The minimum policy must cover the limits of the South Carolina Tort Claims Act (S.C. Code Ann. Section 15-78-120 (Supp. 2001)).

(3) The application must include a description of the insurance to cover loss to the school building and contents for fire and theft and a statement from a South Carolina licensed insurance company or the state insurance reserve fund setting out the charter school applicant's ability to secure the insurance and an estimate of the cost of the insurance.

(4) The application must include a description of indemnity insurance against civil and criminal liability for the charter school to protect the sponsor, the members of the board of the sponsor, and the employees of a sponsor acting in their official capacity with respect to all activities related to the charter school. A statement

from a South Carolina licensed insurance company or the state insurance reserve fund setting out the charter school applicant's ability to secure the insurance and an estimate of the cost of the insurance must also be included.

(5) The application must include a description of automobile insurance, both property and liability insurance, and a statement from a South Carolina licensed insurance company or the state insurance reserve fund setting out the charter school applicant's ability to secure the insurance and an estimate of the cost of the insurance.

IV. VIRTUAL CHARTER SCHOOLS

(A) Definition: a virtual charter school is a charter school whereby students are taught primarily through online methods; however, at least 25 percent of the instruction in core areas as defined in Section IV(E)(1) must be through regular instructional opportunities. Regular instructional opportunities may include, but are not limited to, the opportunities outlined in Section IV(E)(2).

(B) The following additional information must be submitted to the Advisory Committee with the charter application:

- (1) List of currently developed courses that are ready for curriculum alignment;
- (2) Access to one course per level that can be previewed by South Carolina Department of Education (SCDE) to assess depth of work necessary for curriculum alignment;
- (3) Description of how the proposed charter will comply with the 25 percent real time requirement;
- (4) A timeline of how curriculum development will be completed and then approved by the SCDE;
- (5) A description of how much teacher interaction students will receive within the online instruction;
- (6) A description of the portal used and how it works;
- (7) A description of how the applicant plans to comply with the teacher requirements in S.C. Code Ann. Section 59-40-50.

(C) Curriculum

(1) All courses in core areas for which there are state-adopted curriculum standards must be reviewed to determine whether the courses meet content and grade specific standards, and approved by the SCDE prior to offering the course.

(2) Review by the Sponsor

After the approval or conditional approval of a charter by the sponsor, the virtual charter school may submit courses for approval by the sponsor.

(D) Additional Program Requirements

The program must provide the following:

(1) Each course must be taught by a teacher meeting the requirements of S.C. Code Ann. Section 59-40-50;

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(2) Ensure that a parent or legal guardian verifies the number of hours of educational activities completed by the student each year;

(3) Provide for frequent, ongoing monitoring of an individual student's program to verify each student is participating in the program;

(4) Include proctored assessments for core subjects per semester that are graded or evaluated by the teacher;

(5) Conduct at least bi-weekly parent-teacher conferences in person or by telephone;

(6) Provide for a method to verify student attendance;

(7) Provide for verification of ongoing student progress and performance in each course as documented by assessments and examples of coursework.

(E) Regular Instructional Opportunities

(1) The charter school must provide regular instructional opportunities in real time that are directly related to the school's curricular objectives. Core academic instruction includes instruction in English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

(2) Regular instructional opportunities include, but are not limited to, the following:

(a) meetings with teachers;

(b) educational field trips and outings;

(c) virtual field trips that are in real time attended by other charter school students;

(d) virtual conferencing sessions;

(e) offline work or projects assigned by the teacher of record.

V. CONDITIONAL CHARTERS

The local school board may grant a conditional charter, instead of a full charter, to an applicant whose application meets the standards as determined by the Advisory Committee only if one or more of the following conditions exists: a charter school has not yet secured its space and been issued a certificate of occupancy by the Office of School Facilities, secured its equipment, facilities, and/or personnel.

The conditional approval must be in writing and outline the specific conditions that must be met for approval and must include the specific date by which the conditions need to be met in order to secure approval. The local school board must make a determination as to whether the charter applicant has met the conditions of the conditional approval on or before the date specified in the conditional approval. Failure to make a ruling by the date outlined in the conditional charter shall be deemed approved.

VI. ADVERSE IMPACT ON STUDENTS

A local school board of trustees may deny an application if the charter school would adversely affect the other students in the district.

(A) The local school board of trustees must demonstrate adverse impact on students. The impact must be specific and must have a negative effect on students. If the local school board of trustees finds that the charter school would adversely affect other students of the district, the written explanation of the reasons for denial required by Section 59-40-70(C) must describe detrimental effects upon other students of the district.

(B) If the district is claiming an adverse impact based upon the redirection of funding to the charter school, the district must demonstrate that the funds being redirected to the charter school will have a direct negative impact on students.

(1) The district must show options it has considered in an effort to reduce the adverse financial impact of the charter school.

(2) The district has considered the net fiscal impact of the charter school, including the fiscal benefits that the charter school may bring to the district.

VII. FEDERAL CHARTER SCHOOL REQUIREMENTS

(A) Annual Audits

Each authorized charter school in the State must have an annual, independent audit conducted by a qualified auditing or accounting firm and must file the audit annually with the school's authorized public chartering agency.

(B) Academic Achievement

(1) Each authorized charter school in the State operates under a legally binding charter and performance contract between itself and the school's authorized public charter agency that demonstrates improved student academic achievement.

(2) Charter schools must provide evidence of improved student academic achievement for all groups of students described in Section 1111(b)(2)(C)(v) of the ESEA. Authorizers must use increases in student academic achievement for all groups of students described in Section 1111(b)(2)(C)(v) of the ESEA as the most important factor when determining to renew or revoke a school's charter. Each authorizer and charter school must enter into a contractual agreement stating that student performance of all students described in Section 1111(b)(2)(C)(v) of the ESEA is the most important factor when determining to renew or revoke a school's charter.

VIII. GUIDELINES

The South Carolina Department of Education may issue guidelines to assist charter schools in complying with federal legislation, including, but not limited to, the Elementary and Secondary Education Act (ESEA) and the Individuals with Disabilities Education Improvement Act (IDEA).

Fiscal Impact Statement:

There will be no increased costs to the state or its political subdivisions.

Statement of Rationale:

The purpose of the proposed amendments is to add language to clarify certain requirements related to charter schools that receive the federal charter schools grant funds and to ensure that charter schools are in compliance with federal requirements related to the federal charter schools grant program.

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Document No. 4285
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-19-90(10) (2004), 59-63-30 (2004), 59-63-420 (2004), 59-63-470 (2004), 59-63-480 (2004), 59-63-490 (2004), 59-63-500 (2004), 59-63-510 (2004), 59-63-520 (2004), 59-63-530 (2004), 59-65-30 (2004), 59-65-90 (2004), and 20 U.S.C. 7165 (2002)

43-273. Transfers and Withdrawals

Synopsis:

This regulation needs to be amended to expedite the transfer of student records to ensure individual students are properly transferred and schools are accountable for students attending their school. Language was added to require a written request for records.

Notice of Drafting was published in the *State Register* on February 24, 2012.

Instructions:

The following section of Regulation 43-273 is modified as provided below. All other items and sections remain unchanged.

Text:

43-273. Transfers and Withdrawals.

Kindergarten; Grades 1–6; 7–8:

Transfer of Students

Each student transferring shall be given a transfer form showing name, date of birth, grade placement, and attendance record to present to the appropriate school official where he or she is enrolling. Appropriate additional data shall be furnished by the sending school when requested in writing by the receiving school, as soon as possible but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays.

A school must transfer a student's disciplinary record of suspensions and expulsions to the public or private school to which the student is transferring when requested in writing by the receiving school, as soon as possible but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays.

Schools must transfer these records within ten business days upon receiving the written request from the public or private school to which the student is transferring. Schools may not withhold the transfer of records to a public or private school for fees owed by the student.

Grades 9–12:

Transfer of Students

Each student transferring shall be given a transfer form showing name, date of birth, grade placement, and attendance record to present to the appropriate school official where he or she is enrolling. Appropriate additional data shall be furnished by the sending school when requested in writing by the receiving school, as

soon as possible but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays.

A. Accurate accounting records shall be developed and maintained for student transfers and withdrawals. Comprehensive transcripts shall be submitted directly to the receiving school when requested in writing, as soon as possible, but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays. A permanent record of the transferred student shall be retained in the school from which the student is transferred. The school of record must transfer a student's disciplinary record of suspensions and expulsions to the public or private school to which the student is transferring as soon as possible, but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays. Schools may not withhold the transfer of records to a public or private school for fees owed by the student.

B. Units earned by a student in an accredited high school of this state or in a school of another state which is accredited under the regulations of the board of education of that state, or the appropriate regional accrediting agency (New England Association of Colleges and Schools, Middle States Association of Colleges and Schools, Southern Association of Colleges and Schools, North Central Association of Colleges and Schools, Western Association of Colleges and Schools, and the Northwest Association of Colleges and Schools), will be accepted under the same value which would apply to students in the school to which they transferred.

C. If a student transfers from a school, which is not accredited, he or she shall be given tests to evaluate prior academic work and/or be given a tentative assignment in classes for a probationary period.

Fiscal Impact Statement:

There will be no increased costs to the state or its political subdivisions.

Statement of Rationale:

Amendments to Regulation 43-273 will expedite the transfer of student records to ensure individual students are properly transferred and schools are accountable for students attending their school.

There is an ongoing problem with the proper and timely transfer of student records, which impacts student funding and school accountability. Amendments to Regulation 43-273 will expedite the transfer of student records to ensure individual students are properly transferred and schools are accountable for students attending their school.

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Document No. 4268

BOARD OF FUNERAL SERVICE

CHAPTER 57

Statutory Authority: 1976 Code Sections 40-1-70 and 40-19-5 et seq.

57-12. Fees

Synopsis:

To satisfy the requirements of licensure for funeral service providers, Regulation 57-12 is updated to reflect current fees in regulation.

The Notice of Drafting was published in the *State Register* on November 25, 2011.

Instructions:

The following sections of Chapter 57 are modified as provided below. All other items and sections remain unchanged.

Text:

57-12. Fees.

(A) Fees as follow:

(1) Initial Application and License Fee

(a) Funeral Director Apprentice	\$50.00
(b) Embalmer Apprentice	50.00
(c) Embalmer	100.00
(d) Funeral Director	100.00
(e) Dual Application	150.00
(f) Endorsed Funeral Director	100.00
(g) Endorsed Embalmer	100.00
(h) Endorsed Dual Application	150.00
(i) Funeral Establishment	200.00
(j) Funeral Director Student Permit	25.00
(k) Embalmer Student Permit	25.00

(2) Annual License renewal

(a) Funeral Director Apprentice	\$50.00
(b) Embalmer Apprentice	50.00
(c) Embalmer	100.00
(d) Funeral Director	100.00
(e) Dual License	120.00
(f) Funeral Establishment	120.00
(g) Funeral Director Student Permit	25.00
(h) Embalmer Student Permit	25.00

(3) Late Renewal Penalty (1-6 months) 120.00

(4) Reactivation (Revival) (6 months or more) 120.00 + renewal fee for each year
license was expired

(5) Examination Fee

(a) National State Examination	actual fee charged by examination provider (One part)
(b) National State Examination	actual fee charged by examination provider (Two parts)

(c) State Statutes and Regulations Exam

fee charged by examination
provider

(B) All fees are nonrefundable.

Fiscal Impact Statement:

There will be no cost incurred by the State or any of its political subdivisions.

Statement of Rationale:

This regulation is updated to reflect current fees in regulation.

Document No. 4318
BOARD OF FUNERAL SERVICE
CHAPTER 57

Statutory Authority: 1976 Code Sections 40-1-70 and 40-19-5 et seq.

57-01. Definitions

57-06.1. Apprenticeship Requirements

57-09. Provisions for Biennial Renewal of Licenses and Reactivation of Expired Licenses

57-11. Continuing Education Requirements for Embalmers and Funeral Directors

57-14.3. Training of Crematory Operators

57-14.4. Training of Certified Crematory Trainer/Preceptors

Synopsis:

To satisfy the requirements of licensure for funeral service providers, Regulations 57-01, 57-06.1, 57-09, 57-11, 57-14.3 through 57-14.4 must be amended in conformance with the current Board of Funeral Service Practice Act.

The Notice of Drafting was published in the *State Register* on October 26, 2012.

Instructions:

The following sections of Chapter 57 are modified as provided below. All other items and sections remain unchanged.

Text:

57-01. Definitions.

Definitions found in Section 40-19-20 apply to this chapter.

(A) "Supervision" means protective oversight, including review, timely quality control, and inspection to assist the supervisee in preparing for practice and strengthening the skills of the supervisee. When the apprentice is assisting with funeral directing activities or embalming activities, the supervisor must be present on the premises and readily available.

(B) "Continuing education" means an organized educational program designed to expand a licensee's knowledge base beyond the basic entry level educational requirements.

(C) "Contact hour" means a minimum of fifty (50) minutes of instruction.

(D) "Full-Time Employee" means a person whose work schedule requires that the employee be present a minimum of thirty-five (35) hours per week for the entire normal year of operation.

(E) "Cremains" means the remains of a cremated human body.

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(F) "Crematory" means a facility equipped with a gas fired cremation retort specifically designed use in cremation of human remains.

(G) "Cremation Casket" means a casket specifically designed for holding, viewing, transporting human remains and must meet the requirements listed in item (H) below.

(H) "Alternative container" means a receptacle, other than a casket, in which human remains are transported to a crematory and placed in a cremation chamber for cremation. An alternative container or cremation casket must be:

- (1) composed of readily combustible materials suitable for cremation;
- (2) resistant to leakage or spillage;
- (3) rigid enough for handling with ease;
- (4) able to provide protection for the health, safety, and personal integrity of crematory personnel.

57-06.1. Apprenticeship Requirements.

(1) An apprentice embalmer or funeral director must serve an apprenticeship of not less than twenty-four (24) months. Apprentice embalmers and funeral directors must be full-time employees as defined in this chapter; working under the direct supervision of a funeral director for funeral director apprentices or embalmer for embalmer apprentices who is licensed in South Carolina.

(2) During the course of the apprenticeship, an apprentice must submit reports of his or her funeral activities, indicating the actual number of funerals that he or she has assisted with and in what preparation he or she assisted with. All apprentices must report to the Board quarterly upon the forms provided by or approved by the board indicating all work completed during the reporting period.

(3) The apprentice must report quarterly, regardless of whether or not there has been any activity during the quarter. March 31, June 30, September 30 and December 31 are the due dates for quarterly reports for reporting purposes. Quarterly reports must be submitted to the office of the Board Administrator no later than thirty (30) days after the quarter's end. It is the sole responsibility of the apprentice to ensure that quarterly reports are received in the office of the Board Administrator. Quarterly reports not received on time may not be accepted for credit toward completion of the apprenticeship. In no case shall an apprentice be permitted to complete his or her apprenticeship unless the reporting requirement is met.

(4) The apprentice embalmer or funeral director must conduct all embalming and funeral direction activities under the supervision of the designated supervising licensee as approved by the Board. When the apprentice is assisting with funeral directing activities or embalming activities, the supervisor must be present.

(5) If the apprentice leaves the supervision of the licensee in whose service he or she has been engaged, the supervisor shall give the apprentice an affidavit showing the length of time served toward completion of the apprenticeship. The apprentice must request and obtain permission from the Board to change supervisors by completing a new application and receiving approval to change supervisors from the Board.

(6) To complete his or her apprenticeship, an apprentice embalmer or funeral director must assist in the embalming of at least fifty (50) cases for an apprentice embalmer or assist the funeral director in at least fifty (50) funerals for an apprentice funeral director. The apprentice embalmer or apprentice funeral director must document all embalming and funeral cases that he or she assists in during the apprenticeship period.

(7) A certificate of apprenticeship is renewable twenty-four (24) months after registration for an additional twelve (12) months. A certificate of apprenticeship may not be renewed more than three (3) times.

(8) If an apprentice does not become licensed as a funeral director or embalmer within five (5) years of completing his or her apprenticeship, the Board may require the applicant to complete all or part of the apprenticeship period.

(9) If an apprentice embalmer or funeral director does not complete his or her apprenticeship within five (5) years from the date of application, the Board may require the applicant to complete all or part of the apprenticeship period.

(10) An apprentice may serve under one preceptor per license type.

57-09. Provisions for Biennial Renewal of Licenses and Reactivation of Expired Licenses.

(A) All licenses and renewals expire on the thirtieth (30th) day of June unless sooner revoked or canceled. No license may be issued or renewed for a period exceeding two (2) years.

(B) All applications for renewal shall be filed with the Board prior to June thirtieth (30th) each even year. Renewal applications must be accompanied by the renewal fee prescribed by the Board and, if applicable, the required number of continuing education credits. Licensees who have not properly renewed their licenses for failure to complete the required continuing education credits and/or failure to submit the appropriate renewal fee must apply for late renewal during a six (6) month penalty period following the expiration date. Late renewal applications must be accompanied by documentation, if applicable, indicating completion of the required continuing education credits as specified in Reg. 57-11 and a fee equal to the annual renewal fee plus a penalty as described in Reg. 57-12.

(C) An embalmer or funeral director whose license has been expired for less than five (5) years may reactivate the license by applying to the Board, submitting the required fees, and demonstrating evidence satisfactory to the Board, on a form approved by the Board, of the requisite continuing education hours for each year during which the license was expired. In such cases, the Board may require supervised experience as a condition of reactivation.

(D) An embalmer or funeral director whose license has been expired for more than five (5) years must reapply and meet all of the requirements, including re-examination, at the time of application, for licensure.

(E) Applicants for reactivation must submit a notarized affidavit certifying that he or she has not been engaged in the practice of embalming or funeral directing in this State during the period the license was not in a current status.

57-11. Continuing Education Requirements for Embalmers and Funeral Directors.

(A) Persons licensed as embalmers or funeral directors must complete three (3) hours of formal continuing education during every licensure period as a condition of renewal of their license. The continuing education completed must represent an in-depth study of three (3) different topics and be gained through participation in formal instruction, seminars, or workshops approved by the Board. This continuing education requirement does not apply to persons who are sixty (60) years of age or older or persons who have been licensed for thirty (30) or more years by the Board so long as those persons do not act as the manager of record of any funeral establishment.

(B) The Board may grant waivers of the continuing education requirement in cases involving disability or illness and may extend the time within which the continuing education hours may be gained. Applications for waiver shall be submitted on forms approved by the Board and shall be signed by a licensed health care professional attesting to the licensee's inability to complete continuing education due to disability or illness.

(C) The Board shall maintain a list of approved continuing education courses.

57-14.3. Training of Crematory Operators.

(A) Persons who complete the following training will be listed on the official roster of the Board as Certified Crematory Operators.

(B) Training will cover the following topics. The preceptor will document the time and date of specific training on these topics:

- (1) Documents required prior to cremation authorization;
- (2) Compliance with the record keeping requirements of this chapter;
- (3) Operation of the retort and processing cremains, including specific safety precautions.

57-14.4. Training of Certified Crematory Trainer/Preceptors.

(A) Persons who complete the following training and documented experience will be listed on the official roster of the Board as Certified Crematory Trainer/preceptors.

(B) Training will include the following components:

- (1) Factory approved instruction in the operation of the on-site unit;
- (2) Documents required prior to cremation (e.g. authorization, BRT, DC, Coroners' Permit);

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- (3) Compliance with the record keeping requirements of this chapter;
- (4) Operation of the retort and processing cremains, including specific safety precautions;
- (5) Packaging and delivery of cremains.

Fiscal Impact Statement:

There will be no cost incurred by the State or any of its political subdivisions.

Statement of Rationale:

These regulations are updated in conformance with the current Funeral Practice Act.

Document No. 4296
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Sections 44-53-10 et seq.

61-4. Controlled Substances

Synopsis:

The purpose of this amendment is to remove obsolete language and provide for consistency with state and federal laws. The amendments will also clarify the procedures for reporting the theft or loss of controlled substances, inventory requirements, and the method for recording refills of schedules III, IV and V controlled substances. The revisions will clarify who may dispense controlled substances, the quantity limitations for controlled substances prescriptions, the allowance to fax and partially fill schedule II controlled substances prescriptions for terminally ill patients or patients in long term care facilities, to exclude community residential care facilities and assisted living facilities. There is also a change in the expiration date for a schedule II controlled substance prescription to conform to current statutory language. In addition, the Department will provide for registration, installation, and operation of automated storage machines at long term care facilities. These revisions will address the method of payment of registration fees and provide for certain fee exemptions. Furthermore, these amendments will provide for electronic prescriptions for controlled substances in accordance with current U.S. Drug Enforcement Administration (DEA) regulations at 21 C.F.R. § 1311, and permit the faxing for schedule III, IV and V controlled substances prescriptions. Finally, the revised regulation will contain updated references to the title of Commissioner.

See Section-by-Section Discussion of these amendments below and Statement of Need and Reasonableness herein.

A Notice of Drafting for these amendments was published in the *State Register* on June 22, 2012.

Changes Made as Requested by the House Medical, Military, Public and
Municipal Affairs Committee by letter dated March 19, 2013:

Section 102(u). Returned the definition to existing text.

Section 1101. Revised paragraph 1101(f) to permit faxing of prescriptions from Long Term Care Facilities, to exclude community residential care facilities and assisted living facilities.

Section 1105. Revised paragraph 1105(b) to allow for partial filling of prescriptions from Long Term Care Facilities, to exclude community residential care facilities and assisted living facilities.

Section-by-Section Discussion of Amendment Submitted to the
General Assembly January 9, 2013:

The table of contents for this regulation was revised to be more user friendly in locating subject matter consistent with the text of the regulation. Also, grammatical, capitalization, punctuation, references, outlining/codification corrections and language changes for consistency were made throughout the regulation to improve the overall quality of the regulation in meeting standards for drafting regulations.

Table of Contents was renumbered for ease of use.

Section 101 - Purpose and Scope added for consistency with other regulations.

Old Section 101(a)-(ac) was renumbered to Section 102(a)-(ee) and definitions were reorganized alphabetically.

Old Section 101(d) was deleted; it refers to a position no longer in existence.

Old Section 101(e) was deleted; it refers to a position no longer in existence.

Old Section 101(h) was renumbered to Section 102(k) and clarifies references to the Director of DHEC.

Old Section 101(y) was renumbered to Section 102(u) and clarifies definition of Long Term Care Facility.

Section 102(c) defines automated storage machines.

Section 102(d) defines Bureau Director.

Section 102(i) defines controlled substance.

Section 102(dd) defines scheduling of a controlled substance.

Old Section 103 was deleted.

Section 104 clarifies method of payment of registration fees.

Sections 107 and 151 were renumbered to Sections 107 and 412 and provide for separate registration of automated storage machines.

Section 110 provides fee exemption for certain military and other personnel.

Section 114 clarifies requirements for filling out-of-state prescriptions.

Section 115 was renumbered to Section 201 and clarifies Bureau Director.

Section 116 was renumbered to Section 202 and clarifies reference to application forms.

Sections 118 and 119 deleted obsolete references to filing of applications.

Sections 120-129 were renumbered to Sections 204-309 to clarify Directors and delete obsolete language.

Section 125 was renumbered to Section 305 and deletes obsolete reference to the Certificate of Registration.

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Sections 132 and 133 were renumbered to Sections 312 and 313 to clarify Director and to remove obsolete language.

Section 136 was renumbered to Section 316 and provides for appeals, clarifies Director, and removes obsolete language.

Section 137 was renumbered to Section 317; clarifies Director and deletes form reference.

Section 138 was renumbered to Section 318 and clarifies Bureau Director.

Sections 139-141 were renumbered to Sections 320-402 to clarify Bureau Director.

Sections 143-150 were renumbered to Sections 404-411; clarify language regarding theft or loss of controlled substances; clarify employee screening, responsibility and illicit activities.

Section 412 provides for installation and operation of automated storage machines at Long Term Care Facilities.

Section 202 was renumbered to Section 501 and deletes obsolete language.

Sections 204 and 205 were renumbered to Sections 503 and 504 and clarify Bureau Director.

Section 207 was renumbered to Section 506 and clarifies labeling requirements.

Section 303(b) was renumbered to Section 602(b) and clarifies documentation for prescriptions for controlled substances.

Section 304 was renumbered to Section 603 and clarifies Bureau Director.

Sections 305-307, 310, and 312 were renumbered to Sections 701-703, 706, and 708 to clarify inventory requirements and Bureau Director.

Section 316(d) was renumbered to Section 804(d) and clarifies conflict with Section 207 (now 506) as to who may dispense a controlled substance.

Section 402 was renumbered to Section 902 and provides for handling of electronic orders for controlled substances.

Sections 505 and 513 were renumbered to Sections 1003 and 1201 and provide option for issuing electronic prescriptions for a controlled substance.

Section 506.1 was renumbered to Section 1006 and deletes obsolete language to clarify filling prescriptions.

Sections 507.1, 507.2, and 507.4 were renumbered to Sections 1008, 1009, and 1011, and clarify federal agencies approval prior to registration of maintenance programs by DHEC; clarify Director and remove obsolete language.

Section 508 was renumbered to Section 1101 and provides an option for issuing electronic prescriptions for a controlled substance; clarifies Bureau Director and reference to the Social Security Act.

Section 508.1 was renumbered to Section 1102 and provides for expiration date for schedule II prescriptions consistent with SC Code § 44-53-360.

Section 510 was renumbered to Section 1105 and clarifies partial filling of schedule II prescriptions consistent with federal regulations.

Section 511 was renumbered to Section 1106 and clarifies labeling requirements.

Section 513(a) was renumbered to Section 1201(a) and permits faxing of schedules III, IV and V prescriptions consistent with SC Code § 44-53-360.

Section 514 was renumbered to Section 1202 and clarifies documentation of refills for schedules III, IV and V prescriptions.

Section 514.1 was renumbered to Section 1203 and provides for quantity limitations for schedule III, IV and V prescriptions, consistent with SC Code § 44-53-360.

Section 515 was renumbered to Section 1206 and clarifies labeling requirements.

Sections 517-517.1 were deleted. Provisions are addressed in Sections 1201 and 1203.

Section 518 was renumbered to Section 1208 and clarifies dispensing without a prescription.

Section 603 was renumbered to Section 1303 and clarifies Bureau Director.

Section 607 was renumbered to Section 1404, clarifies procedure for distribution of controlled substances upon discontinuance or transfer of business; and clarifies Bureau Director.

Section 608 was deleted. Procedure is addressed in Federal Regulation at 21 CFR 1307.13.

Section 609 was renumbered to Section 1501 and clarifies procedure for disposal of controlled Substances and clarifies Bureau Director.

Sections 701-709 were deleted. Scheduling of controlled substances is addressed in SC Code §§ 44-53-160 through 290. Excluded substances and excepted compounds are addressed in federal regulations.

Section 801 was deleted. Procedure is addressed in Part 300.

Section 803 was renumbered to Section 1601 and clarifies Bureau Director.

Section 812 was renumbered to Section 1609 and clarifies language.

Sections 814-815 were renumbered to Sections 1701-1702 and clarify Directors.

Sections 816-818 were renumbered to Sections 1801-1803 and clarify administrative conferences and Bureau Director.

Section 903 was renumbered to Section 1903 and clarifies resident registration.

Section 904 deletes reference to a function that is no longer performed by the Bureau of Drug Control.

Section 906 was renumbered to Section 1905 and clarify procedures with regard to electronic orders.

Section 908 was renumbered to Section 1907 and updates and clarifies the language for verbal orders.

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Section 910 was renumbered to Section 1909 and permits electronic systems for orders and records of controlled substances.

Section 911 was renumbered to Section 1910 and clarifies procedure in case of waste, destruction, contamination, etc., and deleted reference to a function that is no longer performed by the Bureau of Drug Control. Corrected a typographical error.

Section 918 was deleted as outdated.

Instructions:

Replace R.61-4, Controlled Substantives, in entirety with this amendment.

Text:

61-4. CONTROLLED SUBSTANCES.

(Statutory Authority: S.C. Code § 44-53-10 et seq.)

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PART 100. Purpose and Scope; Definitions, Information, Payment of Fees, Certain Exemptions, Separate Registrations, Out-of-State Dispensing of Prescriptions.

101. Purpose and Scope.

This regulation implements the provisions of Section 44-53-10, et seq., of the S.C. Code of Laws, 1976, as amended. It establishes the requirements necessary to ensure the appropriate security, authority and accountability with regard to the possession, manufacture, dispensing, administering, use and distribution of controlled substances in South Carolina.

102. Definitions.

As used in this regulation, the following terms shall have the meaning specified:

(a) Act. Article 3 of Chapter 53 of Title 44 of the 1976 S.C. Code of Laws, including all amendments thereto.

(b) Administration and the Abbreviation DEA. Refer to Drug Enforcement Administration, United States Department of Justice, the successor agency to the Bureau of Narcotics and Dangerous Drugs as defined in the Act.

(c) Automated Storage Machine. A mechanical system that performs operations, other than compounding or administration, that allow medications to be provided to the patient and stored near the point of care while controlling and tracking drug distribution under the control of a licensed pharmacist.

(d) Bureau Director. The Director of the Bureau of Drug Control, DHEC.

(e) Code. The Code of Laws of South Carolina, 1976, including all amendments thereto.

(f) Commercial Container. Any bottle, jar, tube, ampoule, or other receptacle in which a substance is held for distribution or dispensing to an ultimate user, and, in addition, any box or package in which the receptacle is held for distribution or dispensing to an ultimate user. The term "commercial container" does not include any package liner, package insert, or other material kept with or within a commercial container, nor any carton, crate, box, or other package in which commercial containers are stored or are used for shipment of controlled substances.

(g) Compounder. Any person engaging in maintenance or detoxification treatment who also mixes, prepares, packages, or changes the dosage forms of a narcotic drug listed in Schedules II, III, IV, or V for use in maintenance or detoxification treatment by another narcotic treatment program. The term "compounder" as the content requires, includes any lawfully authorized person who changes the dosage forms, mixes, or prepares any controlled substance for use by the ultimate user pursuant to the legitimate and lawful order of a practitioner acting in the regular course of professional practice or by the practitioner personally, if authorized by law to compound and dispense controlled substances.

(h) Controlled Premises:

(1) Places where original or other records or documents required under the Act are required to be kept, and

(2) Places, including factories, warehouses, or other establishments, and conveyances, where persons registered under the Act or exempted from registration under the Act may lawfully hold, manufacture, dispense, distribute, administer, or otherwise dispose of controlled substances.

(i) Controlled Substance. A drug, substance, or immediate precursor in Schedules I through V as described in S.C. Code Sections 44-53-190, 44-53-210, 44-53-230, 44-53-250, and 44-53-270.

(j) DHEC. The South Carolina Department of Health and Environmental Control.

(k) Director. Unless otherwise specified, the Director of the Department of Health and Environmental Control.

(l) Dispenser. An individual practitioner, institutional practitioner, pharmacy or pharmacist who dispenses a controlled substance.

(m) Detoxification Treatment. The dispensing for a period not in excess of twenty-one days, of a narcotic or narcotics drugs in decreasing dosages to an individual in order to alleviate adverse physiological or psychological effects incidental to withdrawal from the continuous or sustained use of a narcotic drug and as a method of bringing the individual to a narcotic drug-free state within such period of time. SEE ALSO §§ 1007 through 1011 inclusive.

(n) Emergency Situation. For the purposes of authorizing an oral prescription of a controlled substance listed in Schedule II of the Act, the term "emergency situation" means those situations in which the prescribing practitioner determines:

(1) That immediate administration of the controlled substance is necessary, for proper treatment of the intended ultimate user; and

(2) That no appropriate alternative treatment is available, including administration of a drug which is not a controlled substance under Schedule II of the Act; and

(3) That it is not reasonably possible for the prescribing practitioner to provide a written prescription to be presented to the person dispensing the substance, prior to the dispensing.

(o) Hearing. Any hearing held pursuant to the provisions of the Act or of this regulation, including, but not limited to, hearings for the granting, denial, revocation, or suspension of a registration pursuant to the Act.

(p) Home Infusion Pharmacy. A pharmacy which compounds solutions for direct administration to a patient in a private residence, Long Term Care Facility or hospice setting by means of parenteral, intravenous, intra-muscular, subcutaneous or intra-spinal infusion.

(q) Individual Practitioner. A physician, dentist, veterinarian, or other individual licensed, registered, or otherwise permitted by the United States or the State of South Carolina, or by other jurisdiction, or otherwise permitted by the United States or the State of South Carolina, or by any other jurisdiction in which he practices to dispense a controlled substance in the regular course of professional practice, but does not include a pharmacist, a pharmacy, or any institutional practitioner.

(r) Inspector or Drug Inspector. An officer or employee of the Bureau of Drug Control authorized by the Bureau Director to make inspections under the Act, and to conduct audit procedures in relation to controlled substances, and includes the Director of the Bureau of Drug Control.

(s) Institutional Practitioner. A hospital or other person (other than an individual) licensed, registered, or otherwise permitted by the United States, the State of South Carolina, or other jurisdiction in which it

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practices, to dispense a controlled substance in the regular course of professional practice, but does not include a pharmacy.

(t) Interested Person. Any person adversely affected or aggrieved by any rule or proposed rule issued or issuable pursuant to the Act.

(u) Long Term Care Facility (LTCF). Nursing home, intermediate care, mental care, or other facility or institution which provides extended health care to resident patients and is licensed as such by DHEC or other appropriate State agency, which may further define the term for licensing and certification purposes.

(v) Name. The official name, common or usual name, chemical name, or brand name of a substance.

(w) Person. Includes any individual, corporation, government or governmental subdivision or agency, business trust, partnership, association, or other legal entity.

(x) Pharmacist. Any pharmacist licensed by a state to dispense controlled substances, and shall include any person (e.g., pharmacy intern) authorized by the State to dispense controlled substances under the supervision of a pharmacist licensed by the State.

(y) Prescription. An order for medication which is dispensed to or for an ultimate user, but does not include an order for medication which is dispensed for immediate administration to the ultimate user (e.g., an order to dispense a drug to a bed patient for immediate administration in a hospital is not a prescription).

(z) Proceeding. All actions taken for the issuance, amendment, or repeal of any rules and regulations issued pursuant to the Act, commencing with the publication by the Bureau Director of the proposed rule, amended rule, or appeal.

(aa) Readily Retrievable. Certain records are kept by automatic data processing systems or other electronic or mechanized record keeping systems in such a manner that they can be separated out from all other records in a reasonable time and/or records are kept on which certain items are asterisked, red-lined, or in some other manner visually identifiable apart from other items appearing on the records; when the term is not applicable to data processing systems, the term also means that a registrant is able to produce controlled substances records in a timely manner (usually within one hour) and that such records are segregated, sorted, or filed in such a manner that the controlled substances information may be derived from the material within a reasonable time (usually with a few hours) by an inspector.

(bb) Register and Registration. Refer only to registration required and permitted by the Act;

(cc) Registrant. Any person who is registered pursuant to the Act.

(dd) Scheduling of a Controlled Substance. Controlled substances are scheduled in accordance with provisions set forth in state law. Changes in the schedule of a controlled substance are made as set forth in S.C. Code Ann. § 44-53-160.

(ee) Any term not defined in this section shall have the definition set forth in the Act, or amendments thereto.

103. Information; Special Instructions.

Information regarding procedures under these rules and special instructions supplementing these rules will be furnished upon request by writing to the Bureau of Drug Control DHEC, 2600 Bull Street, Columbia, SC 29201.

104. Time and Method of Payment of Fees; Refund.

Registration and re-registration fees shall be paid at the time when the application for registration is submitted for filing. Payment shall be made in the form of a personal, certified or cashier's check, money order, credit card or online electronic payment, made payable to DHEC. Payments made in the form of stamps, foreign currency, or third party endorsed checks will not be accepted. In the event that the application is not accepted for filing or is denied, the payment shall be refunded to the applicant.

105. Registrants Exempt from Fee.

(a) Any federal agency, installation or official authorized by law to procure or purchase controlled substances for official use shall be exempt from payment of a fee for registration or re-registration.

(b) In order to claim exemption from the payment of fees for registration or re-registration, the registrant shall have completed the certification on the appropriate application form, wherein the applicant's superior or the agency head certifies to the status and address of the registrant and to the authority of the registrant to acquire, possess or handle controlled substances.

(c) Exemption from payment of a registration fee does not relieve the registrant of any other requirements or duties prescribed by law.

106. Persons Required to Register.

Every person who manufactures, distributes, prescribes or dispenses any controlled substance or who proposes to engage in the manufacture, distribution or dispensing of any controlled substance shall obtain annually a registration unless exempted by law. Only persons actually engaged in such activities are required to obtain a registration; related or affiliated persons who are not engaged in such activities are not required to be registered. (For example, a stockholder or parent corporation of a corporation manufacturing controlled substances is not required to obtain a registration.)

107. Separate Registration for Independent Activities.

(a) The following groups of activities are deemed to be independent of each other:

- (1) Manufacturing controlled substances;
- (2) Distributing controlled substances;
- (3) Dispensing controlled substances listed in schedules II through V;
- (4) Conducting research (other than research described in paragraph (a) (6) of this section) with controlled substances listed in schedules II through V;
- (5) Conducting instructional activities with controlled substances listed in schedule II through V;
- (6) Conducting a narcotic treatment program using any drug listed in Schedules II through V: however, pursuant to §109, employees, agents or affiliated practitioners, in programs, need not register separately. Each program site located away from the principal location and at which place narcotic drugs are stored or dispensed shall be separately registered and obtain narcotic drugs by use of order forms pursuant to §§ 901 and 902;
- (7) Conducting research and instructional activities with controlled substances listed in schedule I;

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- (8) Conducting chemical analysis with controlled substances listed in any schedules;
- (9) Importing controlled substances;
- (10) Exporting controlled substances listed in schedules I through IV;
- (11) A compounder as defined by § 102(g); and
- (12) Automated storage machines at long term care facilities.

(b) Every person who engages in more than one group of independent activities shall obtain a separate registration for each group of activities, except as provided in this paragraph. Any person, when registered to engage in the group of activities described in each subparagraph in this paragraph, shall be authorized to engage in the coincident activities described in that subparagraph without obtaining a registration to engage in such coincident activities, provided that, unless specifically exempted, he complies with all requirements and duties prescribed by law for persons registered to engage in such coincident activities:

(1) A person registered to manufacture or import any controlled substance or basic class of controlled substance shall be authorized to distribute that substance or class, but no other substance or class which he is not registered to manufacture or import;

(2) A person registered to manufacture any controlled substance listed in schedules II through V shall be authorized to conduct chemical analysis and pre-clinical research (including quality control analysis) with narcotic and non-narcotic controlled substances listed in those schedules in which he is authorized to manufacture;

(3) A person registered to conduct research with a basic class of controlled substance listed in schedule I shall be authorized to manufacture or import such class if and to the extent that such manufacture and importation is set forth in the research protocol filed with the application for registration which shall conform with the provisions of 21 CFR § 1301.33, and to distribute such class to other persons registered or authorized to conduct research with such class, or registered or authorized to conduct chemical analysis with controlled substances;

(4) A person registered to conduct chemical analysis with controlled substances shall be authorized to manufacture and import such substances for analytical or instructional purposes, to distribute such substances to other persons registered to conduct chemical analysis or instructional activities and to persons exempted from registration pursuant to § 111, to export such substances to persons in other countries performing chemical analysis or enforcing laws relating to controlled substances or drugs in those countries, and to conduct instructional activities with controlled substances;

(5) A person registered or authorized to conduct research (other than research described in paragraph (a)(6) of this section) with controlled substances listed in those schedules in which he or she is authorized to conduct research, to manufacture such substances if and to the extent that such manufacture is set forth in a statement filed with the application for registration, to import such substances for research purposes, to distribute such substances to other persons registered or authorized to conduct chemical analysis, instructional activities, or research with such substances and to persons exempted from registration pursuant to § 111, and to conduct instructional activities with controlled substances; and

(6) A person registered to dispense controlled substances listed in Schedules II through V may conduct research (other than research described in paragraph (a) (6) of this section) in conformity with the provisions of S.C. Code Ann. § 44-53-300(c) and conduct instructional activities with those substances.

(c) A single registration to engage in any group of independent activities may include one or more substances listed in the schedules authorized in that group of independent activities. A person registered to conduct research with controlled substances listed in Schedule I may conduct research with any substance listed in Schedule I for which he or she has filed and had approved a research protocol.

108. Separate Registrations for Separate Locations.

(a) A separate registration is required for each principal place of business or professional practice at one general physical location where controlled substances are manufactured, distributed, or dispensed by a person.

(b) The following locations shall be deemed not to be places where controlled substances are manufactured, distributed, or dispensed:

(1) A warehouse where controlled substances are stored by or on behalf of a registered person, unless such substances are distributed directly from such warehouse to registrants other than the registered person or to persons not required to register by the Act;

(2) An office used by agents of a registrant where sales of controlled substances are solicited, made, or supervised but which neither contains such substances for display purposes or lawful distribution as samples only nor serves as a distribution point for filling sales orders; and

(3) An office used by a practitioner (who is registered at another location) where controlled substances are prescribed but neither administered nor otherwise dispensed as a regular part of the professional practice of the practitioner at such office and where no supplies of controlled substances are maintained.

109. Exemption of Agents and Employees; Affiliated Practitioners.

(a) The requirement of registration is waived for any agent or employee of a person who is registered to engage in any group of independent activities, if such agent or employee is acting in the usual course of his or her business or employment. (For example, a pharmacist employed by a pharmacy need not be individually registered to conduct lawful business activity in preparing and dispensing of controlled substances if the pharmacy in which he or she is employed is properly registered under the Act; a manufacturer's sales representative may lawfully distribute samples of controlled substances manufactured by his or her employer, provided the manufacturer-employer is lawfully registered and the distribution is made to a registrant authorized to possess controlled substances and not to a non-registrant employee of the recipient of the sample.)

(b) An individual practitioner who is affiliated with one or more other individual practitioners in any legitimate and lawful form of business arrangement (i.e., partnership, professional association, etc.) shall be registered individually with DHEC prior to engaging in any form of controlled substances activity, pursuant to the provisions of S.C. Code Ann. §§ 44-53-290 and 44-53-370(a)(1). With the written Power of Attorney of another affiliated practitioner within the group, any other affiliate individual practitioner may administer or dispense (other than by prescribing) controlled substances within the regular course of professional practice if and to the extent the practitioner granting the power of attorney has authorized. (For example, Dr. X and Dr. Y are partners; they shall be individually registered in order to utilize controlled substances in their practice; if Dr. X desired, he or she could issue Dr. Y a power of attorney to utilize Dr. X's office stock of controlled substances to administer an injection of product CRx to Dr. Y's Patient, Mrs. A. while she is in the office. Dr. Y may not, however, sign Dr. X's name to prescriptions, nor may Dr. Y use Dr. X's registration number to obtain stocks of controlled substances for himself or herself or his or her own office stock.) Any power of attorney, once granted, may be revoked by the grantor in writing. Nothing in this Section shall be construed to relieve the grantor of any power of attorney of any responsibility for the proper storage, record keeping, handling, or legitimate use of any controlled substances acquired by the grantor; nor shall anything be construed as relieving the grantee practitioner from full and complete responsibility for his or her actions

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conducted pursuant to the power of attorney or for controlled substances acquired or utilized pursuant to this paragraph.

(c) Pharmacists listed with the S.C. Board of Pharmacy as the "pharmacist-in-charge" of a pharmacy holding a permit issued by that Board to operate as a retail pharmacy, shall be considered as a "registrant" within the meaning of the Act and this Regulation, and shall be primarily responsible for the controlled substances activity at the registered location of the pharmacy. Nothing in this paragraph shall be construed as relieving an owner, partner, corporate officer, or any other person who may be a registrant-in-fact (due to his or her position within the business entity) from any direct or vicarious liability which may be incurred due to unlawful or ultra vires activity, nor shall it be construed to relieve any employee of the business entity from direct responsibility for his or her own unlawful acts.

(d) Individual practitioners permitted under the provisions of Federal Regulation 21 CFR § 1301.24 to dispense, administer, or prescribe controlled substances under the registration of a hospital or other institution which is registered, in lieu of personal registration, are prohibited from this practice by the provisions of S.C. Code Ann. §§ 44-53-290 and 44-53-370(a)(1). No prescriptions issued within this State shall be dispensed by any person registered with DHEC unless the individual practitioner issuing the prescription holds a valid individual practitioner registration with DEA. Nothing shall prevent the dispensing of such prescriptions if they are co-signed by an individual practitioner holding a valid individual registration with the DEA and DHEC, providing that the co-signing practitioner has established a valid practitioner-patient relationship as set forth by §§ 1103 and 1204 of this Regulation prior to the dispensing of the controlled substance. Nothing in this paragraph shall preclude any pharmacy or dispensary operated by the Federal government on any property or enclave not subject to State jurisdiction from any act permitted under Federal law or regulation, nor shall it preclude the dispensing of out-of-state prescriptions as permitted by § 114 of this Regulation.

110. Exemption of Certain Military and Other Personnel.

(a) The requirement of registration is waived for any official of the U.S. Army, Navy, Marine Corps, Air Force, Coast Guard, Public Health Service or Bureau of Prisons who is authorized to prescribe, dispense or administer, but not procure or purchase controlled substances in the course of his or her official duties, provided such prescribing, dispensing, and administering of controlled substances takes place upon a military reservation or other Federal enclave. Practitioners who issue prescriptions for controlled substances which are to be dispensed from governmental stocks shall be exempt from registration. Any practitioner who issues prescriptions for controlled substances which are to be dispensed from non-governmental pharmacies or dispensaries shall register with DHEC prior to issuing such prescriptions.

(b) Practitioners who issue prescriptions for controlled substances which are dispensed from non-governmental pharmacies or dispensaries must complete a controlled substances registration application annually;

(c) Practitioners who register annually with DHEC are granted an exemption to the fee requirement pursuant to Section 1303 of this regulation, provided that the request for exemption to the fee requirement is filed in writing with the Bureau Director. The written request must contain a military picture ID of the requestor, as well as documentation of the name and location of the military installation or hospital facility where the practitioner is located.

(d) This registration requirement and fee exemption applies only to practitioners and officials of the United States military service organizations, including the Army, Navy, Marine Corp, Air Force, and Coast Guard, and the Public Health Service, Bureau of Prisons, and Veteran's Administration, who are based on military installations or other Federal hospital facilities, providing healthcare on behalf of the Federal government.

(e) If any official exempted by this section also engages as a private individual in any activity or group of activities for which registration is required, such official shall obtain a registration for such private activities.

111. Exemption of Law Enforcement Officials.

(a) The requirement of registration is waived for the following persons in the circumstances described in this section:

(1) Any official or employee of the DEA, U.S. Department of Justice, any officer of the U.S. Bureau of Customs, any officer or employee of the United States Food and Drug Administration, and any other federal officer who is lawfully engaged in the law enforcement of any federal law relating to controlled substances, drugs or customs, and is duly authorized to possess controlled substances in the course of his or her official duties; and

(2) Any officer or employee of any state, or any political subdivision or agency thereof, who is engaged in the enforcement of any state or local law relating to controlled substances and is duly authorized to possess controlled substances in the course of his or her official duties.

(b) Any official exempted by this section may when acting in the course of his or her official duties, possess any controlled substances and distribute any such substance to any other official who is also exempted by this section and acting in the course of his or her official duties.

(c) Any official exempted by this section may procure any controlled substance in the course of an inspection, in accordance with the Act or in the course of any criminal investigation involving the person from whom the substance was procured.

(d) In order to enable law enforcement agency laboratories to obtain and transfer controlled substances for use in chemical analysis, such laboratories shall obtain annually a registration to conduct chemical analysis. Such laboratories shall be exempted from payment of a fee for registration. Laboratory personnel, when acting in the scope of their official duties, are deemed to be officials exempted by this section and within the activity described. For purposes of this paragraph, laboratory activities shall not include field or other preliminary chemical tests by officials exempted by this section.

112. Exemption of Civil Defense Officials.

(a) The requirement of registration is waived for any official of a civil defense or disaster relief organization who, in the course of his or her official duties, is authorized to:

(1) Maintain, and distribute for such maintenance, controlled substances held for emergency use; or

(2) Procure controlled substances for the purpose of maintaining supplies for emergency use, provided that all of such procurement is from the U.S. General Services Administration and in accordance with the rules of the U.S. Office of Emergency Preparedness.

(b) The requirement of registration is waived for any official of a civil defense or relief organization during a state of emergency or disaster within his or her jurisdiction proclaimed by the President or by a concurrent resolution of the Congress, which official, in the course of his or her official duties, during such emergency or disaster, is authorized to:

(1) Dispense controlled substances; or

(2) Procure or distribute controlled substances, provided that all such procurement is on a special "Civil Defense Emergency Order Form" as prescribed in the Federal Regulations (21 CFR § 1301.27(c)).

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113. Registration Regarding Ocean Vessels and Aircrafts.

Registration of masters of ocean vessels and aircraft or the medical officers thereof shall be deemed sufficient if they are properly registered with the U.S. Department of Justice, DEA.

114. Dispensing of Out-of-State Prescriptions and Orders.

(a) Prescriptions or orders for controlled substances from out-of-state practitioners may be filled in good faith by dispensers provided:

- (1) The dispenser knows the recipient; or requires proper ID and notes such on the prescription;
- (2) The dispenser makes a good faith inquiry concerning whether the order or prescription is legitimate;

(3) The prescription or order meets all of the requirements of this regulation and the Act, including whether the order or prescription is for legitimate medical purposes, and is within the regular course of practice of the practitioner;

(4) The practitioner who issued the prescription would ordinarily be entitled to issue prescriptions under SC law (i.e., physicians, dentists, veterinarians, and podiatrists are authorized to issue prescriptions; chiropractors, psychologists, etc. are not authorized to prescribe drugs); and

(5) The prescribing practitioner holds a valid individual Federal [D.E.A.] controlled substance registration number in the state, district, or territory of origin of the prescription, or is exempt from such registration requirement under the provisions of Federal Regulation 21 CFR § 1301.24.

(b) Out-of-State prescriptions which do not conform to South Carolina law and which are not otherwise exempted shall not be dispensed.

PART 200. Application for Registration.

201. Time for Application for Registration; Expiration Date.

(a) Any person who is required to be registered and who is not so registered may apply for registration at any time. No person required to be registered shall engage in any activity for which registration is required until the application for registration is granted and a Certificate of Registration is issued by the Bureau Director to such person.

(b) Any person who is registered may apply to be reregistered not more than 60 days before the expiration date of his or her registration.

(c) Fees for registration for a physician shall be from October 2nd of the year until October 1st of the succeeding year. Fees for registration for any other person required to be registered shall be from April 2nd of the year until April 1st of the succeeding year. In the event any physician shall become registered subsequent to October 1st of any year, the entire registration fee shall be due and no pro-rata of fees will be allowed. In the event any other person required to be registered shall become registered subsequent to April 1st of any year, the entire registration fee shall be due and no pro-rata of fees will be allowed.

202. Application Forms; Content; Signature.

(a) If the person is required to be registered, and is not so registered and is applying for registration;

(1) As a practitioner, pharmacy, mid-level practitioner, animal control, animal shelter, health clinic, EMS, rescue squad, or hospice, he or she shall apply on the applicable DHEC form or its electronic equivalent;

(2) As a narcotic treatment program, he or she shall apply on the applicable DHEC form or its electronic equivalent;

(3) As a distributor, canine unit, researcher, exporter, importer, broker, analytical or forensic laboratory, manufacturer or hospital, he or she shall apply on the applicable DHEC form or its electronic equivalent.

(b) Each application for registration to handle any basic class of controlled substances listed in schedule I (except to conduct chemical analysis with such classes), and each application for registration to manufacture a basic class of controlled substance listed in schedule II, or to conduct research with any Narcotic controlled substance listed in schedule II, shall include the Controlled Substances Control Number for each basic class or substance to be covered by such registration.

(c) Each application shall include all information called for in the form, unless the item is not applicable, in which case this fact shall be indicated.

(d) Each application, attachment, or other document files as part of an application, shall be signed by the applicant, if an individual; by a partner of the applicant, if a partnership; or by an officer of the applicant, if a corporation, corporate division, association, trust or other entity. Another person may be authorized to sign for the applicant, if proof of authority (e.g. general power of attorney) accompanies the application.

203. Research Protocols.

(a) Applicants for “Researcher” registration in Schedule I shall submit a research protocol containing all the information required for Federal Schedule I research protocol set forth under 21 CFR § 1301.32.

(b) Practitioners registered with DHEC desiring to perform incidental research on or with controlled substances under the provisions of S.C. Code Ann. § 44-53-300(c) are not required to furnish the formal protocol (except for narcotic substances as is required under Federal law), but shall instead provide a written summary of the proposed research, including the scope, the substance to be utilized, the number of research subjects (and their identity if protection from prosecution is desired), the duration of the research and the estimated usage of the controlled substance. Insofar as is practical, the dispensing of the controlled substance utilized in a valid research project shall be performed by the researcher or a particular dispenser or small group of dispensers in order to maintain adequate control. While not imperative to DHEC, notice of any participating dispensaries or pharmacies should be made to the Bureau of Drug Control in order that inadvertent and unnecessary investigations of normally unusual dispensing practices may be avoided.

(c) DHEC may require additional information or updating of protocols from time to time, but not more often than annually, unless a major change or deviation from previously submitted protocols or summaries is discovered. It is the responsibility of the person conducting the research project to notify to Department prior to any change in a protocol.

204. Additional Information.

The Bureau Director may request an applicant to submit such documents or written statements of fact relevant to the application as he or she deems necessary to determine whether the application should be granted. The failure of the applicant to provide such documents or statements within a reasonable time after having been requested to do so shall be deemed to be a waiver by the applicant of an opportunity to present such documents or facts for consideration by the Bureau Director in granting or denying the application.

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205. Amendments to and Withdrawal of Applications.

(a) An application may be amended or withdrawn without permission of the Bureau Director at any time before the date on which the applicant receives an order to show cause pursuant to § 309 or before the date on which a notice of hearing on the application is published pursuant to § 309 whichever is sooner. An application may be amended or withdrawn with permission of the Bureau Director at any time where good cause is shown by the applicant or where the amendment or withdrawal is in the public interest.

(b) After an application has been accepted for filing, the request by the applicant that it be returned or the failure of the applicant to respond to official correspondence regarding the application, when sent by registered or certified mail, return receipt requested, shall be deemed to be a withdrawal of the application.

PART 300. Action on Applications for Registration; Revocation or Suspension of Registration.

301. Administrative Review Generally.

The Bureau Director may inspect, or cause to be inspected the establishment of an applicant or registrant, pursuant to the Act or this Regulation. The Bureau Director shall review the application for registration and other information gathered by the Bureau of Drug Control regarding an applicant in order to determine whether the applicable standards of the Act have been met by the applicant.

302. Applications for Research in Controlled Schedule I Substances.

(a) In the case of an application for registration to conduct research with controlled substances, the Bureau Director shall refer such application to the Director who shall determine the qualifications and competency of the applicant as well as the merits of the research protocol. The Bureau Director, in determining the merits of a research protocol, shall consider procedures to effectively safeguard against diversion of such controlled substances from legitimate medical or scientific use. If the Bureau Director finds the applicant qualified and competent and the research protocol meritorious and adequately safeguarded, he shall register the applicant unless he finds registration should be denied on a ground specified in the Act.

(b) If the Bureau Director is unable to find the applicant qualified or finds that grounds exist for the denial of the application, the Bureau Director shall issue an order to show cause pursuant to § 309 and, if requested by the applicant, hold a hearing on the application pursuant to § 310.

303. Application for Bulk Manufacture of Schedules I and II Substances.

The Bureau Director shall coordinate applications for bulk manufacture of schedules I and II controlled substances with the DEA of the U.S. Department of Justice. Applications may be received by the Bureau Director for such bulk manufacture, but shall not be acted upon until tentative or conditional approval is made by the appropriate federal agency, and after such notifications, publications, and other actions required by Chapter II, Title 21, Code of Federal Regulations [21 CFR §1301, ff.] are effected by the applicant.

304. Provisional Registration.

(a) The Bureau Director, in his or her discretion, may grant provisional registration as a Researcher, Manufacturer, Distributor, Importer, or Exporter to any applicant, pending such applicant's obtaining a registration under Federal law. The duration of such provisional registration shall not exceed one year, and may not be renewed. Upon the granting of Federal registration, the provisional registration may be converted to a permanent registration by DHEC, which may renew such registration in the same manner as any other regular registration. If the Bureau Director does not find it in the public interest to grant a provisional registration, or to convert a provisional registration into a regular registration in the manner provided above, procedures set forth in S.C. Code Ann. § 44-53-320 for denial of registration shall be followed.

(b) Provisional registration does not entitle the applicant (i.e., the provisional registrant) to conduct any controlled substances activity within this State until such time as the applicant obtains a valid federal [DEA] registration for the identical activity at the same registered location.

305. Certificate of Registration; Denial of Registration.

(a) The Bureau Director shall issue a Certificate of Registration to an applicant if the issuance of registration or re-registration is required under the applicable provisions of the Act. In the event that the issuance of registration or re-registration is not required, the Bureau Director shall deny the application. Before denying any application, the Bureau Director shall issue an order to show cause pursuant to § 309 and, if requested by the applicant, shall hold a hearing on the application pursuant to § 310.

(b) The Certificate of Registration shall contain the name, address, and registration number of the registrant, the activity authorized by the registration, the schedules and/or Controlled Substances Code Number of the controlled substances which the registrant is authorized to handle, the amount of fee paid (or exemption), and the expiration date of the registration. The registrant shall maintain the Certificate of Registration at the registered location in a readily retrievable manner and shall permit inspection of the certificate by any official, agent or employee of the DEA or of any federal, state, or local agency engaged in enforcement of laws relating to controlled substances.

306. Suspension or Revocation of Registration.

(a) The Bureau Director may suspend any registration pursuant to the Act for any period of time he determines.

(b) The Bureau Director may revoke any registration pursuant to the Act.

(c) Before revoking or suspending any registration, the Bureau Director shall issue an order to show cause pursuant to § 309 and, if requested by the registrant shall hold a hearing pursuant to § 310. Notwithstanding the requirements of this section, however, the Director may suspend any registration pending a final order pursuant to § 307.

(d) Upon service of the order of the Bureau Director suspending or revoking registration, the registrant shall immediately deliver his or her Certificate of Registration and any forms to his or her possession to the office of the Bureau of Drug Control. The suspension or revocation of a registration shall suspend or revoke any individual manufacturing or procurement quota fixed for the registrant. Also, upon service of the order of the Bureau Director suspending or revoking registration, the registrant shall:

(1) Deliver all controlled substances in his or her possession to the office of the Bureau of Drug Control or to authorized agents of the Bureau of Drug Control; or

(2) Place all controlled substances in his or her possession under seal as described in the Act.

(e) In the event that revocation or suspension is limited to a particular controlled substance or substances, the registrant shall be given a new Certificate of Registration for all substances not affected by such revocation or suspension; no fee shall be required to be paid for the new Certificate of Registration. The registrant shall deliver the old Certificate of Registration and, if appropriate, any order forms in his or her possession to the office of the Bureau of Drug Control. The suspension or revocation of a registration, when limited to a particular basic class or classes of controlled substances, shall suspend or revoke any individual manufacturing or procurement quota fixed for the registrant for such class or classes. Also, upon service of the order of the Bureau Director revoking or suspending registration, the registrant shall:

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(1) Deliver to the office of the Bureau of Drug Control or to authorized agents of the Bureau of Drug Control all of the particular controlled substances or substances affected by the revocation or suspension which are in his or her possession; or

(2) Place all of such substances under seal as described in the Act.

307. Suspension of Registration Pending Final Order.

(a) The Bureau Director may suspend any registration simultaneously with or at any time subsequent to the service upon the registration of an order to show cause why such registration should not be revoked or suspended, in any case where he or she finds there is an imminent danger to the public health or safety. If the Bureau Director so suspends, he or she shall serve with the order to show cause pursuant to § 309 an order of immediate suspension, which shall contain a statement of his or her findings regarding the danger in public health or safety.

(b) Upon service of the order of immediate suspension, the registrant shall promptly return his or her Certificate of Registration and any order forms in his or her possession to the office of the Bureau of Drug Control. The suspension of any registration under this section shall suspend any quota fixed for the registrant. Also, upon service of the order of the Bureau Director immediately suspending registration, the registrant shall, as instructed by the Bureau Director:

(1) Deliver all affected controlled substances in his or her possession to the office of the Bureau of Drug Control or to authorized agents of the Bureau of Drug Control; or

(2) Place all of such substances under seal as described in the Act.

(c) Any suspension shall continue in effect until the conclusion of all proceedings upon the revocation or suspension, including any judicial review thereof, unless sooner withdrawn by the Bureau Director or dissolved by a court of competent jurisdiction. Any registrant whose registration is suspended under this section may request a hearing on the revocation or suspension of his or her registration at a time earlier than specified in the order to show cause pursuant to § 309, which request shall be granted by the Bureau Director, who shall fix a date for such hearing as early as reasonably possible.

308. Extension of Registration Pending Final Order.

(a) In the event that an applicant for re-registration (who is doing business under a registration previously granted and not revoked or suspended) has applied for re-registration of at least 45 days before the date on which the existing registration is due to expire, and the Bureau Director has issued an order on the application on the date on which the existing registration is due to expire, the existing registration of the applicant shall automatically be extended and continue to effect until the date on which the Bureau Director so issues his or her order.

(b) The Bureau Director may extend any other existing registration under the circumstances contemplated in this section even though the registrant failed to apply for re-registration; at least 45 days before expiration of the existing registration, with or without request by the registrant, if the Bureau Director finds that such extension is not inconsistent with the public health and safety.

309. Order to Show Cause.

(a) If, upon examination of the application for registration from any applicant and other information gathered by the Bureau of Drug Control regarding the applicant, the Bureau Director is unable to make the determinations required by the applicable provisions of the Act to register the applicant, the Bureau Director shall serve upon the applicant an order to show cause why the registration should not be denied.

(b) If, upon information gathered by the Bureau of Drug Control regarding any registrant, the Bureau Director determines that the registration of such registrant is subject to suspension or revocation to the Act, the Bureau Director shall serve upon the registrant an order to show cause why the registration should not be revoked or suspended.

(c) The order to show cause shall call upon the applicant or registrant to appear before a hearing officer at a time and place stated in the order, which shall not be less than 30 days after the date of receipt of the order. The order to show cause shall also contain a statement of the legal basis for such hearing and for the denial, revocation, or suspension of registration and a summary of the matters of fact and law asserted.

(d) Upon receipt of an order to show cause, the applicant or registrant shall, if he or she desires a hearing, file a request for a hearing in writing. If a hearing is requested, the hearing officer shall hold a hearing at the time and place stated in the order, pursuant to § 311.

(e) When authorized by the Bureau Director, any agent of the Bureau of Drug Control may serve the order to show cause, or service may be effected by registered or certified mail.

310. Hearing Generally.

(a) In any case where the hearing officer shall hold a hearing on any registration or application therefore, the procedures for such hearing shall be governed generally by the adjudication procedures set forth by statute or by the Attorney General's Office.

(b) Any hearing under this part shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under the Act of any other law of this State or the United States.

311. Purpose of Hearing.

If requested by a person entitled to a hearing the hearing officer shall hold a hearing for the purpose of receiving factual evidence regarding the issues involved in the denial, revocation, or suspension of any registration, and the granting of any application for registration to manufacture in bulk a basic class of controlled substances listed in schedules I or II. Extensive argument should not be offered into evidence but rather presented in opening or closing statements of counsel or in memoranda or proposed findings of fact and conclusions of law.

312. Waiver and Modification of Rules.

The Director or the presiding officer (with respect to matters pending before him or her) may modify or waive any rules in this part by notice in advance of the hearing, if he or she determines that no party in the hearing will be unduly prejudiced and the ends of justice will thereby be served. Such notice of modification or waiver shall be made a part of the record of the hearing.

313. Request for Hearing or Appearance; Waiver.

(a) Any person entitled to a hearing pursuant to §§ 302-306 and desiring a hearing shall, within 30 days after the date of receipt of the order to show cause, file with the Director a written notice for a hearing.

(b) Any person entitled to and desiring to participate in a hearing pursuant to § 309 shall, within 10 days of the date of the hearing, file with the Director a written notice of his or her intention to participate in such hearing.

(c) Any person entitled to a hearing or to participate in a hearing pursuant to §§ 302-306 may, within the period permitted for filing a request for a hearing or a notice of appearance, file with the Director a waiver of

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an opportunity for a hearing or to participate in a hearing, together with a written statement regarding his or her position on the matters of fact and law involved in such hearing. Such statement, if admissible, shall be made a part of the record and shall be considered in light of the lack of opportunity for cross-examination in determining the weight to be attached to matters of fact asserted therein.

(d) If any person entitled to a hearing or to participate in a hearing pursuant to §§ 302-306 fails to file a request for a hearing or a notice of appearance, or if he so files and fails to appear at the hearing, he shall be deemed to have waived his or her opportunity for the hearing or to participate in the hearing, unless he show good cause for such failure.

(e) If all persons entitled to a hearing or to participate in a hearing waive or are deemed to waive their opportunity for the hearing or to participate in the hearing, the Director may cancel the hearing if scheduled, and issue his or her final order pursuant to § 316 without a hearing.

314. Burden of Proof.

(a) At any hearing on an application to manufacture any controlled substance listed in schedule I or II, the applicant shall have the burden of proving that the requirements for such registration pursuant to the Act are satisfied. Any other person participating in the hearing pursuant to § 313 shall have the burden of proving any proposition of fact or law asserted to him or her in the hearing.

(b) At any hearing on the granting or denial of an application to be registered to conduct a narcotic treatment program or as a compounder, the applicant shall have the burden of proving that the requirements for each registration pursuant to S.C. Code Ann. § 44-53-290(i) are satisfied.

(c) At any other hearing for the denial of a registration, DHEC shall have the burden of proving that the requirements for such registration pursuant to the Act are not satisfied.

(d) At any hearing for the revocation or suspension of a registration, DHEC shall have the burden of proving that the requirements of the Act for such suspension or revocation are satisfied.

315. Time and Place of Hearing.

The hearing will commence at the place and time designated in the order to show cause or notice of hearing (unless expedited pursuant to § 307) but thereafter it may be moved to a different place and may be continued from day to day or recessed to a later day without notice other than announcement thereof by the presiding officer at the hearing.

316. Final Order and Appeals.

(a) Final order. As soon as practicable after the hearing officer has certified the record to the Director, the Director shall certify his or her order on the granting, denial, revocation, or suspension of registration.

(b) Appeals. A Department decision involving the issuance, denial, renewal, suspension, or revocation of a permit, license, certificate or certification may be appealed by an affected person with standing pursuant to applicable law, including S.C. Code Title 44, Chapter 1 and Chapter 53; and Title 1, Chapter 23. Any person to whom an order is issued may appeal it pursuant to applicable law, including S.C. Code Title 44, Chapter 1 and Chapter 53; and Title 1, Chapter 23.

317. Modification in Registration.

Any registrant may apply to modify his or her registration to authorize the handling of additional controlled substances or to change his or her name or address, by submitting a letter of request to the Bureau of Drug

Control, DHEC, 2600 Bull Street, Columbia, SC 29201. The letter shall contain the registrant's name, address, and registration number as printed on the Certificate of Registration, and the substances and/or schedules to be added to his or her registration or the new name or address and shall be signed in accordance with § 202(d). If the modification in registration is approved, the Bureau Director shall issue a new Certificate of Registration to the registrant, who shall maintain it with the old Certificate of Registration until expiration.

318. Termination of Registration.

The registration of any person shall terminate if and when such person dies, ceases legal existence, or discontinues business or professional practice. Any registrant who ceases legal existence or discontinues business or professional practice shall notify the Bureau Director promptly of such fact.

319. Termination of Registration; Partnerships and Corporations; Other Business Entities.

(a) Upon the transfer of ownership of a controlling interest in any partnership, corporation, holding company, association, or other business entity holding a registration under the Act, which is not a personal registration as an individual or a proprietorship registration involving a single individual registrant, the registration held prior to any transfer of any controlling interest or controlling ownership shall terminate upon the effective date of the transfer, and a new registration shall be obtained if the business entity is to continue controlled substances activity. DHEC may, in its discretion, permit a transferor-registrant to permit the transferee to continue operation pursuant to a written power of attorney for a period of not more than 60 days, during the pendency of obtaining a new registration for the transferee.

(b) If the control of a corporation already registered under the Act shall be acquired by another corporation not registered under the Act, the acquiring corporation need not obtain a separate registration for itself, unless merger takes place; the corporation acquired shall, however, obtain a new registration even if there is no change in corporate officers if it intends to continue controlled substances activity. In the event a merger is effected between the acquiring corporation and the acquired corporation (regardless of the surviving or ensuing name) the acquiring corporation shall obtain a new registration in its own name, or in the name of the successor or ensuing corporation (if different) prior to engaging in controlled substances activity. Successor corporations shall be deemed to be new business entities, and shall obtain new registration prior to conducting controlled substances activity.

320. Transfer of Registration.

No registration or authority conferred thereby shall be assigned or otherwise transferred except upon conditions as the Bureau Director may specifically designate and then only pursuant to his or her written consent.

PART 400. Security Requirements.

401. Security Requirements Generally.

(a) All applicants and registrants shall provide effective controls and procedures to guard against theft and diversion of controlled substances. In order to determine whether a registrant has provided effective controls against diversion, the Bureau Director shall use the security requirements set forth in §§ 402-406 as standards for the physical security controls and operating procedures necessary to diversion. Materials and construction which will provide a structural equivalent to the physical security controls set forth in §§ 402, 403, and 405 may be used in lieu of the materials and construction described in those sections.

(b) Substantial compliance with the standards set forth in §§ 402-406 may be deemed sufficient by the Bureau Director after evaluation of the overall security system and needs of the applicant or registrant. In

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evaluating the overall security system of a registrant or applicant, the Bureau Director may consider any of the following factors as he may deem relevant to the need for strict compliance with security requirements:

(1) The type of activity conducted (e.g., processing of bulk chemicals, preparing dosage forms, packaging, labeling, cooperative buying, etc.);

(2) The type and form of controlled substances handled (e.g., bulk liquids or dosage units, usable powders or non-usable powders);

(3) The quantity of controlled substances handled;

(4) The location of the premises and the relationship such location bears on security needs;

(5) The type of building construction comprising the facility and the general characteristics of the building or buildings;

(6) The type of vault, safe, and secure enclosures or other storage systems (e.g., automatic storage and retrieval system) used;

(7) The type of closures on vaults, safes, and secure enclosures;

(8) The adequacy of key control systems and/or combination lock control system;

(9) The adequacy of electric detection and alarm systems if any, including use of supervised transmittal lines and standby power sources;

(10) The extent of unsupervised public access to the facility, including the presence and characteristics of perimeter fencing, if any;

(11) The adequacy of supervision over employees having access to manufacturing and storage area;

(12) The procedures for handling business guests, visitors, maintenance personnel, and non-employees service personnel;

(13) The availability of local police protection or of the registrant's or applicant's security personnel; and

(14) The adequacy of the registrant's or applicant's system for monitoring the receipt, manufacture, distribution, and disposition of controlled substances in its operations.

(c) When physical security controls become inadequate as a result of a controlled substance being transferred to a different scientific schedule, or as a result of a non-controlled substance being listed on any schedule, or as a result of a significant increase in the quantity of controlled substances in the possession of the registrant during normal business operations, the physical security controls shall be expanded and extended accordingly. A registrant may adjust physical security controls within the requirements set forth in §§ 402-406 when the need for such controls decreases as a result of a controlled substance being transferred to a different schedule, or a result of a controlled substance being removed from control, or as a result of a significant decrease in the quantity of controlled substances in the possession of the registrant during normal business operations.

(d) Any registrant or applicant desiring to determine whether a proposed security system substantially complies with, or is the structural equivalent of, the requirements set forth in §§ 402-406 may submit any plans, blueprints, sketches or other materials regarding the proposed security system either to the Bureau Director or to the Compliance Investigations Division, DEA, Department of Justice, Washington, DC 20537.

(e) Physical security controls of locations registered under the Harrison Act or the Narcotics Manufacturing Act of 1960 on April 30, 1971, shall be deemed to comply substantially with the standards set forth in §§ 402, 403, and 405. Any new facilities or work or storage areas constructed or utilized for controlled substances, which facilities or work or storage areas have not been previously approved by the Bureau of Drug Control, shall not necessarily be deemed to comply substantially with the standards set forth in §§ 402, 403, and 405 notwithstanding that such facilities or work or storage areas have physical security controls similar to those previously approved.

402. Physical Security Controls for Non-practitioners; Storage Areas.

(a) Schedules I and II. Raw materials, bulk materials awaiting further processing, and finished products which are controlled substances listed in schedules I and II shall be stored in one of the following secure storage areas:

(1) Where small quantities permit, a safe or steel cabinet:

(i) Which safe or steel cabinet shall have the following specifications or the equivalent: 30 man-minutes against surreptitious entry, 10 man-minutes against forced entry, 20 man-minutes against lock manipulation, and 20 man-minutes against radiological techniques.

(ii) Which safe or steel cabinet, if it weighs less than 750 pounds, is bolted or cemented to the floor or wall in such a way that it cannot be readily removed; and

(iii) Which safe or steel cabinet, if necessary, depending upon the quantities and type of controlled substances stored, is equipped with an alarm system which, upon attempted unauthorized entry, shall transmit a signal directly to a central protection company or a local or state police agency which has a legal duty to respond, or a 24-hour control station operated by the registrant, or such other protection as the Bureau Director may approve.

(2) A vault constructed before, or under construction on, September 1, 1971, which is of substantial construction with a steel door, combination or key lock, and an alarm system and

(3) A vault constructed after September 1, 1971:

(i) The walls, floors, and ceilings of which vaults are constructed of at least 8 inches of reinforced concrete or other substantial masonry, reinforced vertically and horizontally with ½ inch steel rods tied 6 inches on center, or the structural equivalent to such reinforced walls, floors and ceilings;

(ii) The door and frame of which vault shall conform to the following specifications or the equivalent; 30 man-minutes against surreptitious entry, 10 man-minutes against forced entry, 20 man-hours against local manipulation, and 20 man-hours against radiological techniques.

(iii) Which vault, if operations require it to remain open for frequent access, is equipped with a "day-gate" which is self-closing and self-locking, or the equivalent, for use during the hours of operation in which the vault door is open;

(iv) The walls or perimeter of which vault are equipped with an alarm, which upon unauthorized entry shall transmit a signal directly to a central station protection company, or a local or state police agency which has a legal duty to respond, or a 24-hour control station operated by the registrant as the Bureau of Drug Control may approve and, if necessary, holdup buttons at strategic points of entry to the perimeter area of the vault;

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(v) Which vault has one of the following: complete electrical lacing of the walls, floor and ceilings; sensitive ultrasonic equipment within the vault; a sensitive sound accumulator system; or such other device designed to detect illegal entry as may be approved by the Bureau of Drug Control.

(b) Schedules III, IV and V. Raw materials, bulk materials awaiting further processing and finished products which are controlled substances listed in schedules III, IV, and V shall be stored in one of the following secure storage areas:

(1) Where small quantities permit, a safe which complies with the requirements set forth in paragraph (a)(1) of this section;

(2) A vault which complies with the requirements set forth in either paragraph (a)(2) or (3) of this section; equipped with an alarm system as described in paragraph (b) (4) (v) of this section; or

(3) A building used for storage of Schedules III through V controlled substances with perimeter security which limits access during working hours and provides security after working hours and meets the following specifications:

(i) Has an electronic alarm system as described in paragraph (b) (4) (v) of this section;

(ii) Is equipped with self-closing, self-locking doors constructed of substantial material commensurate with the type of building construction, provided, however, a door which is kept closed and locked at all times when not in use, and when in use is kept under direct observation of a responsible employee of the agent or registrant is permitted in lieu of a self-closing, self-locking door. Doors may be sliding or hinged. Regarding hinged doors, where hinges are mounted on the outside, such hinges shall be sealed, welded, or otherwise constructed to inhibit removal. Locking devices for such doors shall be either of the multiple-position combination or key lock type and:

(a) In the case of key locks, shall require key control which limits access to a limited number of employees, or;

(b) In the case of combination locks, the combination shall be limited to a minimum number of employees and can be changed upon termination of employment of an employee having knowledge of the combination;

(4) A cage, located within a building on the premises, meeting the following specifications:

(i) Having walls constructed of not less than No. 10 gauge steel posts, which posts are:

(a) At least one inch in diameter;

(b) Set in concrete or installed with lag bolts that are pinned or brazed; and

(c) Which are placed no more than 10 feet apart with horizontal one and one-half inch reinforcements every sixty inches;

(ii) Having a mesh construction with openings of not more than two and one-half inches across the square;

(iii) Having a ceiling constructed of the same material, or in the alternative, a cage shall be erected which reaches and is securely attached to the structural ceiling of the building. A lighter gauge mesh may be used for the ceilings of large enclosed areas if walls are at least 14 feet in height;

(iv) Is equipped with a door constructed of No. 10 gauge steel fabric on a metal door frame in a metal door flange, and in all other respects conforms to all of the requirements of subparagraph (b)(3)(ii) of this section; and

(v) Is equipped with an alarm system which upon unauthorized entry shall transmit a signal directly to a central station protection agency, or a local or state police agency, each having a legal duty to respond, or a 24-hour control station operated by the registrant, or to such other source of protection that the Bureau Director may approve;

(5) An enclosure of masonry or other material, approved in writing by the Bureau Director as providing security comparable to a cage;

(6) A building or enclosure within a building which has been inspected and approved by DEA or its predecessor, agency, BNDD, and continues to provide adequate security against the diversion of Schedule III through V controlled substances, of which fact written acknowledgment from DEA (BNDD) has been received for the area in which such building or enclosure is situated;

(7) Such other secure storage areas as may be approved by the Bureau Director after consulting with DEA and the factors listed in § 401(b)(1) through (14) of this regulation;

(8)(i) Schedule III through V controlled substances may be stored with Schedules I and II controlled substances under security measures provided by paragraph (a) of this section;

(ii) Non-controlled drugs, substances, and other materials may be stored with Schedule III through V controlled substances in any of the secure storage areas required by this section, provided, that permission for such storage of non-controlled substances has been obtained in advance, in writing, from both the Bureau Director and the DEA agent in charge of the area in which such storage area is situated [See 21 CFR § 1301.72 (b)(8)(ii)]. Any such permission shall be based upon the determination that the storage of such items does not diminish security for the controlled substances.

(c) Multiple store areas. Where several types or classes of controlled substances are handled separately by the registrant or applicant for different purposes (e.g. returned goods, or goods in process), the controlled substances may be stored separately, provided that each storage area complies with the requirements set forth in this section.

(d) Accessibility to storage areas. The controlled substances storage areas shall be accessible only to an absolute minimum number of specifically authorized employees. When it is necessary for employee maintenance personnel, non-employee maintenance personnel, business guests, or visitors to be present in or pass through controlled substances storage areas, the registrant shall provide for adequate observation of the area by an employee specifically authorized in writing.

403. Physical Security Controls for Non-practitioners; Manufacturing Areas.

All manufacturing activities (including processing, packaging, and labeling) involving controlled substances listed in any schedule and all activities of compounders shall be conducted in accordance with the following:

(a) All in-process substances shall be returned to the controlled substances storage area at the termination of the process. If the process is not terminated at the end of a workday (except where a continuous process or other normal manufacturing operation should not be interrupted), the processing area or tanks, vessels, bins or bulk containers containing such substances shall be securely locked, with adequate security for the area or building. If such security requires an alarm, such alarm, upon unauthorized entry, shall transmit a signal directly to a central station protection company, or local or state police agency which has a legal duty to respond, or a 24-hour control station operated by the registrant.

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(b) Manufacturing activities with controlled substances shall be conducted in an area or areas of clearly defined limited access which is under surveillance by an employee or employees designated in writing as responsible for the area. "Limited access" may be provided in the absence of physical dividers such as walls or partitions, by traffic control lines or restricted space designation. The employee designated as responsible for the area may be engaged in the particular manufacturing operation being conducted, provided, that he is able to provide continuous surveillance of the area in order that unauthorized persons may not enter or leave the area without his or her knowledge.

(c) During the production of controlled substances, the manufacturing areas shall be accessible to only those employees required for efficient operation. When it is necessary for employee maintenance personnel, non-employee maintenance personnel, business guests, or visitors to be present in or pass through manufacturing areas during production of controlled substances, the registrant shall provide for adequate observation of the area by an employee specifically authorized in writing.

404. Other Security Controls for Non-practitioners; Narcotic Treatment Programs and Compounders for Narcotic Treatment Programs.

(a) Before distributing a controlled substance to any person who the registrant does not know to be registered to possess the controlled substance, the registrant shall make a good faith inquiry either with the DEA or with the state controlled registration agency to determine that the person is registered to possess the controlled substance.

(b) The registrant shall design and operate a system to alert the registrant of suspicious orders of controlled substances. The registrant shall inform the Bureau of Drug Control of suspicious orders when discovered by the registrant. Suspicious orders include orders of unusual size, orders deviating substantially from a normal pattern, and orders of unusual frequency.

(c) The registrant shall notify the office of the Bureau of Drug Control of any theft or loss of any controlled substances upon discovery of such theft or loss. The supplier shall be responsible for reporting in-transit losses of controlled substances by the contract or common carrier pursuant to subparagraph (e) of this section, upon discovery of such theft or loss. The registrant shall also complete DEA Form 106 regarding such theft or loss. Thefts shall be reported whether or not the controlled substances are subsequently recovered and/or the responsible parties are identified and action taken against them.

(d) The registrant shall not distribute any controlled substances in schedules II through V as a complimentary sample to any potential or current customer (1) without the prior written request of the customer, (2) to be used only for satisfying the legitimate medical needs of patients of the customer and (3) only in reasonable quantities. Such request shall contain the name, address, and registration number of the customer and the name and quantity of the specific controlled substances desired. The request shall be preserved by the registrant with other records of distribution of controlled substances. In addition, the requirements of Part 900 of the Regulation shall be complied with for any distribution of a controlled substance listed in schedule II. For purposes of this paragraph, the term "customer" includes a person to whom a complimentary sample of a substance is given in order to encourage the prescribing or recommending of the substance to the person.

(e) When shipping controlled substances, a registrant is responsible for selecting common or contract carriers, which provide adequate security to guard against in-transit losses. When storing controlled substances in a public warehouse, a registrant is responsible for selecting a warehouseman which will provide adequate security to guard against storage losses; wherever possible, the registrant shall store controlled substances in a public warehouse which complies with the requirements set forth in § 402. In addition, the registrant shall employ precautions (e.g. assuring that shipping containers do not indicate the contents are controlled substances) to guard against storage or in-transit losses.

(f) When distributing controlled substances through agents (e.g., detail men), a registrant is responsible for providing adequate security to guard against theft and diversion while the substances are being stored or handled by the agent or agents.

(g) Before the initial distribution of etorphine hydrochloride and/or diprenorphine to any person, the registrant shall verify that the person is authorized to handle the substance(s) by contacting the Bureau of Drug Control and DEA.

(h) The acceptance of delivery of narcotic substances by a narcotic treatment program shall be made only by a licensed practitioner employed at the facility or other authorized individuals designated in writing. At the time of delivery, the licensed practitioner or other authorized individual designated in writing (excluding persons currently or previously dependent on narcotic drugs), shall sign for the narcotics and place his or her specific title (if any) on any invoice. Copies of these signed invoices shall be kept by the distributor.

(i) Narcotics dispensed or administered at a narcotic treatment program will be dispensed or administered directly to the patient by either (1) the licensed practitioner, (2) a registered nurse under the direction of the licensed practitioner, (3) a licensed practical nurse (LPN) under the direction of the licensed practitioner, or (4) a pharmacist acting under a prescription or an order issued by the licensed practitioner.

(j) Persons enrolled in a narcotic treatment program will be required to wait in an area physically separated from the narcotic storage and dispensing area. This requirement will be enforced by the program physician and employees.

(k) All narcotic treatment programs shall comply with standards established by the appropriate Federal authorities [see 21 CFR § 1301.74(k)] and the Bureau of Drug Control, and the provisions of S.C. Code Ann. §§ 44-53-710 through 44-53-760 respecting the quantities of narcotic drugs that may be provided to persons enrolled in a narcotic treatment program for unsupervised use.

(l) DEA and the Bureau of Drug Control may exercise discretion regarding the degree of security required in narcotic treatment programs based upon such factors as the location of the program, the number of patients enrolled in a program, and the number of physicians, staff members, and security guards. Similarly, such factors will be taken into consideration when evaluating existing security or requiring new security at a narcotic treatment program.

405. Physical Security Controls for Practitioners.

(a) Controlled substances listed in schedule I shall be stored in a securely locked, substantially constructed cabinet.

(b) Controlled substances listed in schedules II, III, IV, and V shall be stored in a securely locked, substantially constructed cabinet. However, pharmacies may disperse such substances throughout the stock of non-controlled substances in such a manner as to obstruct the theft or diversion of the controlled substances.

(c) This section shall also apply to non-practitioners authorized to conduct research or chemical analysis under another registration.

(d) Etorphine hydrochloride and diprenorphine shall be stored in a safe or steel cabinet equivalent to a U.S. Government Class V security container.

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406. Other Security Controls of Practitioners.

(a) The registrant shall not knowingly employ as an agent or employee, who has access to controlled substances, any person who has been convicted of a felony offense relating to controlled substances or who, at any time, had an application for registration denied, or has had his or her registration revoked, at any time.

(b) The registrant shall notify the Bureau of Drug Control, DHEC, of the loss or theft of any controlled substances upon discovery of such loss or theft. The registrant shall also complete DEA Form 106 regarding such loss or theft.

(c) The supplier shall be responsible for reporting in-transit losses of controlled substances by the common or contract carrier selected pursuant to 21 CFR § 1301.74(e), upon discovery of such theft or loss.

(d) Whenever the registrant distributes a controlled substance (without being registered as a distributor, as permitted by § 107(b) and/or §§ 1401 through 1404 of this Regulation) he or she shall comply with the requirements imposed on non-practitioners in § 404(a), (b), and (e).

407. Loss by Diversion Due to Repeated Thefts.

(a) Any registrant who suffers repeated losses of controlled substances by theft due to break-ins, employee theft, mysterious disappearance, or other than through an armed robbery shall be deemed to be providing inadequate security for such controlled substances.

(b) Upon the first such diversion, the registrant shall cause such physical security measures to be instituted to prevent reoccurrence.

(c) Upon the second such diversion, the registrant shall be required to appear before the designated hearing officer of DHEC to provide, under oath, the security measures that the registrant has effected and plans to effect in the future to prevent further diversion by theft.

(d) Upon the third such diversion, the registrant shall be cited to show cause, if any he or she may have, why his or her registration under the Controlled Substances Act should not be revoked, suspended, or denied pursuant to the provisions of S.C. Code Ann. § 44-53-310(e).

408. Filing of Theft Reports.

Theft reports (DEA Form 106) as required by this regulation shall be filed with the Bureau of Drug Control not later than 30 days following the discovery of the theft. Failure to file theft reports within the thirty-day period shall result in the issuance of an order to show cause for revocation or suspension of registration under the Act.

409. Employee Screening Procedures.

Registrants are required to screen all employees for criminal convictions and/or unauthorized use of controlled substances. An employer's comprehensive employee screening program will include the following inquiries:

(1) Within the past five years have you been convicted of a felony or any misdemeanor or are you presently formally charged with committing a criminal offense? (Do not include any traffic violations, juvenile offenses, or military conviction, except by general court martial.) If the answer is yes, furnish details of the conviction, offense, location, date, and sentence.

(2) In the past three years, have you ever knowingly used any narcotic, barbiturates, or amphetamines, other than prescribed to you by a physician or other practitioner? If the answer is yes, furnish details.

Employers should obtain an authorization, in writing, that allows inquires to be made of courts and law enforcement agencies for possible pending charges or convictions. This authorization shall be executed by a person who is allowed to work in an area where access to controlled substances clearly exists. A person shall be advised that any false information or omission of information will jeopardize his or her position with respect to employment. The application for employment should inform a person that information furnished or recovered as a result of any inquiry will not necessarily preclude employment, but will be considered as part of an overall evaluation of the person's qualifications. This person must also be informed that the information contained in the application and any information disclosed as a result of the authorization will be available to the Bureau of Drug Control in the event of inquiry or investigation.

410. Employee Responsibility to Report Drug Diversion.

An employee who has knowledge or suspicion of drug diversion from his or her employer by a fellow employee shall report such information to a responsible security official of the employer, or to a person in a management position with the employer. The employer shall treat such information as confidential and shall take all reasonable steps to protect the confidentiality of the information and the identity of the employee furnishing information. A failure to report information of drug diversion will be considered in determining the feasibility of continuing to allow an employee to work in a drug security area, or with access to controlled substances. The employer shall inform all employees concerning this policy.

411. Illicit Activities by Employees.

Employees who sell, possess, use, or divert controlled substances will subject themselves not only to state and federal criminal prosecution for any illicit activity, but shall also immediately become the subject of independent action regarding their continued employment. The employer will assess the seriousness of the employee's violation, the position of responsibility held by the employee, and the past record of employment. in determining whether to suspend, transfer, terminate, or take other action against the employee.

412. Separate Registration by Permitted Pharmacies for Installation and Operation of Automated Storage Machines at Long Term Care Facilities.

(a) A permitted pharmacy may install and operate automated storage machines, as defined in § 102(c) of this Regulation, at long term care facilities. No person other than a permitted pharmacy may install and operate an automated storage machine at a long term care facility.

(b) Permitted pharmacies installing and operating automated storage machines at long term care facilities must maintain a separate registration at the location of each long term care facility at which automated storage machines are located.

(c) A permitted pharmacy applying for a separate registration to operate automated storage machines which contain controlled substances at a long term care facility is exempt from application fees for any such additional registrations.

PART 500. Labeling and Packaging Requirements for Controlled Substances.

501. Symbol Required; Exceptions.

(a) Each commercial container of a controlled substance shall have printed on the label the symbol designating the schedule in which such controlled substance is listed. Each such commercial container, if it otherwise has no label, shall bear a label complying with the requirement of this part.

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(b) Each manufacturer shall print upon the labeling of each controlled substance distributed by him or her the symbol designating the schedule in which such controlled substance is listed.

(c) The following symbols shall designate the schedule corresponding thereto:

Schedule	Symbol
Schedule I	I or C-I
Schedule II	II or C-II
Schedule III	III or C-III
Schedule IV	IV or C-IV
Schedule V	V or C-V

The word "schedule" need not be used. No distinction need be made between narcotic and non-narcotic substances.

(d) The symbol is not required on a carton or wrapper in which a commercial container is held if the symbol is easily legible through such carton or wrapper.

(e) The symbol is not required on a commercial container too small or otherwise unable to accommodate a label, if the symbol is printed on the box or package from which the commercial container is removed upon dispensing to an ultimate user.

(f) The symbol is not required on a commercial container containing, or on the labeling of, a controlled substance being utilized in clinical research involving blind and double blind studies.

(g) The symbol is not required on a commercial container containing, or on labeling of, a controlled substance intended for export from the United States.

502. Location and Size of Symbol on Label.

(a) The symbol shall be prominently located on the right upper corner of the principal panel of the label of the commercial container and/or the panel of the commercial container normally displayed to dispensers of any controlled substance listed in schedules I through V. The symbol shall be at least two times as large as the largest type otherwise printed on the label.

(b) In lieu of locating the symbol in the corner of the label, as prescribed in paragraph (a) of this section, the symbol may be overprinted on the label, in which case the symbol shall be printed at least one-half the height of the label and in a contrasting color providing clear visibility against the background color of the label.

(c) In all cases the symbol shall be clear and large enough to afford easy identification of the schedule of the controlled substance upon inspection without removal from the dispenser's shelf.

503. Location and Size of Symbol on Labeling.

The symbol shall be prominently located on all labeling other than labels covered by Regulation 203. In all cases the symbol shall be clear and large enough to afford prompt identification of the controlled substance upon inspection of the labeling.

(a) All labels on commercial containers of, and all labeling of, a controlled substance which is listed in any schedule on July 1, 1971, and which is packaged after December 1, 1971, shall comply with the requirements of § 501.

(b) All labels on commercial containers of, and all labeling of, a controlled substance which either is listed in any schedule on July 1, 1971, and thereafter transferred to another schedule or is added to any schedule after July 1, 1971, and which is packaged more than 180 days following the dates on which the transfer or addition becomes effective shall comply with the requirements of § 501.

(c) The Bureau Director may, in the case of any controlled substance, require compliance with the requirements of § 501 within a period of time shorter than required by this section if he or she finds that public health or safety necessitates an earlier effective date.

(d) Until compliance is required under this section, the label on commercial container containing, and the labeling of, any controlled substance shall comply with any requirements under federal or state law as to labels of such containers and as to labeling of such substances existing prior to the effective date prescribed in this section.

504. Effective Dates of Labeling Requirements.

(a) All labels on commercial containers of, and all labeling of, a controlled substance which is listed in any schedule on July 1, 1971, and which is packaged after December 1, 1971, shall comply with the requirements of § 501.

(b) All labels on commercial containers of, and all labeling of, a controlled substance which either is listed in any schedule on July 1, 1971, and thereafter transferred to another schedule or is added to any schedule after July 1, 1971, and which is packaged more than 180 days following the dates on which the transfer or addition becomes effective shall comply with the requirements of § 501.

(c) The Bureau Director may, in the case of any controlled substance, require compliance with the requirements of § 501 within a period of time shorter than required by this section if he or she finds that public health or safety necessitates an earlier effective date.

(d) Until compliance is required under this section, the label on commercial container containing, and the labeling of, any controlled substance shall comply with any requirements under federal or state law as to labels of such containers and as to labeling of such substances existing prior to the effective date prescribed in this section.

505. Sealing of Controlled Substances.

(a) On each bottle, multiple dose vial, other commercial container of any controlled substance listed in schedules I and/or II, and of any narcotic controlled substance listed in schedule III or IV, there shall be securely affixed to the stopper, cap, lid, covering, or wrapper of such container a seal to disclose upon inspection any tampering or opening of the container.

(b) Any seal accepted for use, under federal law prior to July 1, 1971, shall be deemed acceptable for use under this section.

506. Labeling for Controlled Substances Dispensed Directly to Ultimate Users.

Controlled substances which are dispensed directly to an ultimate user other than by a prescription dispensed by a pharmacy or by direct administration or application of the substance into or upon the person for whom it is intended, shall bear a label or labeling containing the drug name, the quantity dispensed, the name and address of the dispenser, the name of the ultimate user (i.e., the "patient"), specific directions for use, and the date of the dispensing. The label or labeling shall include any necessary cautionary statement, whether customary or required by state or federal law. A serial number may be utilized at the discretion of the dispenser. The act of dispensing controlled substances shall be performed by the registrant, and shall not be

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delegated to any person other than a pharmacist acting in the regular course of professional activity. Prescriptions shall be labeled pursuant to the provisions of Part 1000 of this Regulation, unless specifically exempted. No practitioner shall directly dispense more than a thirty-one day supply.

PART 600. Records and Reports of Registrants.

601. Scope of Part 600.

Inventory and other records and reports required under the Act shall be in accordance with, and contain the information required by, those sections and by the sections of this Part.

602. Persons Required to Keep Records and File Reports.

(a) Each registrant shall maintain the records and inventories and shall file the reports required by this Part, except as exempted by this Section. Any registrant who is authorized to conduct other activities without being registered to conduct these activities, either pursuant to § 107(b) or to §§ 1401 through 1404, shall maintain the records and inventories and shall file the reports required by this Part for persons registered to conduct such activities. The latter requirement should not be construed as requiring stocks of controlled substances being used in various activities under one registration to be stored separately, nor that separate records are required for each activity. The intent of the Bureau of Drug Control is to permit the registrant to keep one set of records which are adapted by the registrant to account for controlled substances used in any activity. The Bureau of Drug Control does not wish to require separate stocks of the same substance to be purchased and stored for separate activities. Otherwise, there is no advantage gained by permitting several activities under one registration. Thus, when a researcher manufactures a controlled item, he or she shall keep a record of the quantity manufactured; when he or she distributes a quantity of the item, he or she shall use and keep invoices or order forms to document the transfer; when he or she imports a substance, he or she keeps as part of his or her records the documentation required to an importer; and when substances are used in chemical analysis, he or she need not keep a record of this because such a record would not be required of him or her under a registration to do chemical analysis. All of those records may be maintained in one consolidated record system. Similarly, the researcher may store all of his or her controlled items in one place, and every year take inventory of all items in hand, regardless of whether the substances were manufactured by him or her, imported by him or her, or purchased domestically by him or her, or whether the substances will be administered to subjects, distributed to other researchers, or destroyed during chemical analysis.

(b) A registered individual practitioner is not required to keep specific records with respect to controlled substances for which he or she issues prescriptions, or orders for administration within an institutional practitioner setting (e.g., hospital "orders"), in the lawful course of his or her professional practice; provided, that a complete record or memorandum of such prescription or order be maintained upon regular patient records.

(c) A registered individual practitioner is required to maintain a readily retrievable record, separate from patient charts, of all controlled substances acquired, dispensed, administered (other than by the issuance of an institutional order or a prescription) distributed, or otherwise disposed of by the practitioner, his or her employees or agents, whether the controlled substance is separately charged for, included in other charges, or is provided at no charge. Practitioners who personally administer narcotic controlled substances in an emergency need only keep a simple record of the date, kind, quantity, and strength of the controlled substance administered in such emergency, and the name of the recipient. Within 72 hours of the emergency administration, a permanent record shall be constituted and included in the readily retrievable records of dispensing required herein. Repeated or excessive emergency administrations will require the registrant to notify the Bureau of Drug Control of such happenstance.

(d) A registered person using any controlled substance in research conducted in conformity with an exemption granted under § 505(i) or 512(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) as a registered establishment which maintains records in accordance with either of those sections is not required to keep records if he notified the Bureau of Drug Control of the name, address, and registration number of the establishment maintaining such records.

(e) A registered person using any controlled substance in pre-clinical research or in teaching at a registered establishment, which maintains records with respect to such substance, is not required to keep records if he notifies the Bureau of Drug Control of the name, address, and registration number of the establishment maintaining such records.

(f) Notice required by paragraphs (d) and (e) of this section shall be given at the time the person applies for registration or re-registration and shall be made in the form of an attachment to the application, which shall be filed with the application.

603. Maintenance of Records and Inventories.

(a) Every inventory and other record required to be kept under this Part shall be kept by the registrant and be available, for at least two years from the date of such inventory or record, for inspecting and copying by authorized employees of the Bureau of Drug Control, except that financial and shipping records (such as invoices and packing slips but not executed order forms subject to 21 CFR § 1305.13) may be kept at a central location rather than at the registered location if the registrant has notified the Bureau of Drug Control of its intention to keep central records. Written notification shall be submitted by registered or certified mail, return receipt requested, in triplicate to the Bureau Director. Unless the registrant is informed by the Bureau Director that permission to keep central records is denied, the registrant may maintain central records commencing 14 days after receipt of the return receipt accompanying the notification. All notifications shall include:

- (1) The nature of the records to be kept centrally and the exact location where the records will be kept;
- (2) The name, address, state and DEA registration numbers, and type of registration of the registrant whose records are being maintained centrally;
- (3) Whether central records will be maintained in a manual, or computer readable form.

(b) Each registered manufacturer, distributor, importer, and exporter shall maintain inventories and records of controlled substances as follows:

- (1) Inventories and records of controlled substances listed in schedules I and II shall be maintained separately from all of the records of the registrants, and
- (2) Inventories and records of controlled substances listed in schedules III, IV, and V shall be maintained either separately from all other records of the registrant or in such form that the information required is readily retrievable from the ordinary business records of the registrant.

(c) Each registered individual practitioner required to keep records and each institutional practitioner shall maintain inventories and records of controlled substances in the manner prescribed in paragraph (b) of this section.

(d) Each registered pharmacy shall maintain the inventories and records of controlled substances as follows:

- (1) Inventories and records of all controlled substances listed in schedules I and II shall be maintained separately from all other records of the pharmacy, and prescriptions for such substances shall be maintained as a separate prescription file.

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(2) Inventories and records of controlled substances listed in schedules III, IV, and V shall be maintained either separately from all other records of the pharmacy or in such form that the information required is readily retrievable from ordinary business records of the pharmacy.

(3) Prescriptions for controlled substances shall be maintained in separate files from prescriptions for non-controlled substances. Prescriptions for schedule II controlled substances shall be filed separately from prescriptions for schedules III, IV, and V controlled substances. Compliance with this Section will be deemed proper if the pharmacy maintains not less than three files, those being:

File No. 1-Schedule II Controlled Substances only.

File No. 2-Schedules III, IV, and V Controlled Substances only.

File No. 3-Non-controlled Substances.

Sequential numbering systems of the files shall be at the discretion of the dispenser.

(e) All registrants that are authorized to maintain a central record keeping system shall be subject to the following conditions:

(1) The records to be maintained at the central record location shall not include executed order forms, prescriptions, and/or inventories which shall be maintained at each registered location.

(2) If the records are kept on microfilm, computer media, or in any form requiring special equipment to render the records easily readable, the registrant shall provide access to such equipment with the records. If any code system is used (other than pricing information) a key to the code shall be provided to make the records understandable.

(3) The registrant agrees to deliver all or any part of such records to the registered location within 2 business days upon receipt of a written request from the Bureau of Drug Control, and if the Bureau of Drug Control chooses to do so in lieu of requiring delivery of such records to the registered location, to allow authorized employees of the Bureau of Drug Control to inspect such records at the central location upon request by such employees without a warrant of any kind.

(4) In the event that a registrant fails to comply with these conditions, the Bureau Director may cancel such central record keeping authorization, and all other central record keeping authorization held by the registrant without a hearing or other procedures. In the event of cancellation of central record keeping authorization under this paragraph, the registrant shall, within the time specified by the Bureau Director, comply with the requirements of this section that all records be kept at the registered location.

(f) Original documents shall be maintained in addition to those which are stored in computer media for a period of two years from the date of the origination of the document, or from the last transaction contained therein or entered thereupon, whichever is the later date.

PART 700. Inventory Requirements.

701. General Requirements for Inventories.

(a) Each inventory shall contain a complete and accurate record of all controlled substances on hand on the date the inventory is taken. Controlled substances shall be deemed to be "on hand" if they are in the possession of or under the control of the registrant, including substances returned by a customer, substances ordered by a customer but not yet invoiced, substances stored in a warehouse on behalf of the registrant, and substances in the possession of employees of the registrant and intended for distribution as complimentary samples.

(b) A separate inventory shall be made by a registrant for each registered location. In the event controlled substances in the possession or under the control of the registrant at a location for which he is not registered, the substances shall be included in the inventory of the registered location to which they are subject to control or to which the person possessing the substance is responsible. Each inventory for a registered location shall be kept at the registered location.

(c) A separate inventory shall be made by a registrant for each independent activity for which he is registered, except as provided in § 707.

(d) A registrant may take an inventory either as of the opening of business or as of the close of business on the inventory date. The registrant shall indicate on the inventory records whether the inventory is taken as of the opening or as of the close of business, and the date and time the inventory is taken.

(e) An inventory shall be maintained in an indelibly written, typewritten, or printed form. An inventory taken by use of an oral recording device shall be promptly transcribed. Such inventory shall be signed by a responsible individual, who attests to the completeness and accuracy of the inventory.

702. Inventory upon Transfer of Business; Change of Pharmacist-in-Charge.

(a) Inventory upon transfer of business.

(1) Any registrant transferring his or her business to another person who shall become registered to continue such business shall inventory all controlled substances on hand at the close of business on the day of transfer. The receiving registrant shall either (a) certify the inventory taken as being correct, or (b) shall affect his or her own inventory at the start of business on the date of transfer. Any discrepancy in the inventory shall be reported within 5 days to the Bureau Director.

(2) A new establishment, never before having been registered, and having no prior inventory of controlled substances, shall be deemed to have a zero inventory as of the first day of business.

(3) A registrant discontinuing business shall upon the date of discontinuance inventory all controlled substances and place said controlled substances in sealed containers under adequate protection from theft, until such time as the controlled substances are transferred to another registrant. A copy of this inventory shall be placed with the controlled substances, and a copy retained by the discontinuing registrant.

(b) A complete inventory of all controlled substances on hand shall be performed at the time of a change in pharmacist-in charge.

703. Annual Inventory Date.

Inventories shall be taken on May 1st of each year unless written permission for another date is granted by the Bureau of Drug Control. If permission for another date is granted, the registrant shall maintain documentation of such permission for a period of two (2) years. In the event that a person commences business with no controlled substances on hand, he or she shall record this fact as his or her initial inventory.

704. Inventories of Manufacturers.

Each registered manufacturer shall include the following information in his or her inventory:

(a) For each controlled substance in bulk form to be used in (or capable of use in) the manufacture of the same or other controlled or non-controlled substances in finished form:

(1) The name of the substance; and

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(2) The total quantity of the substance to the nearest metric unit weight consistent with unit size (except that for inventories made in 1971), avoirdupois weights may be utilized where metric weights are not readily available)

(b) For each controlled substance in the process of manufacture on the inventory date:

(1) The name of the substance;

(2) The quantity of the substance in each batch and/or state of manufacture, identified by the batch number or other appropriate identifying number;

(3) The physical form which the substance is to take upon completion of the manufacturing process (e.g., granulations, tablets, capsules, or solutions), identified by the batch number or other appropriate identifying number, and if possible the finished form of the substance (e.g., 10-milligram tablet or 10-milligram concentration per fluid ounce or milliliter) and the number of volume thereof.

(c) For each controlled substance in finished form:

(1) The name of the substance;

(2) Each finished form of the substance (e.g. 10-milligram tablet or 10-milligram concentration per fluid ounce or milliliter);

(3) The number of units or volume of each finished form in each commercial container (e.g. 100-tablet bottle or 3-milliliter vial); and

(4) The number of commercial containers of each such finished form (e.g., four 100-tablet bottles or six 3-milliliter vials).

(d) For each controlled substance not included in paragraphs (a), (b), or (c) of this section (e.g., damaged, defective or impure substances awaiting disposal, substances held for quality control purposes, or substances maintained for extemporaneous compounding):

(1) The name of the substance;

(2) The total quantity of the substance to the nearest metric unit weight or the total number of units of finished form; and

(3) The reason for the substance being maintained by the registrant and whether such substance is capable of use in the manufacture of any controlled substance in finished form.

705. Inventories for Distributors.

Each registered distributor shall include in his or her inventory the same information required of manufacturers pursuant to §§ 704(c) and (d).

706. Inventories of Dispensers and Researchers.

Each person registered to dispense or conduct research with controlled substances and required to keep records pursuant to § 601 shall include in his or her inventory the same information required of manufacturers pursuant to §§ 704 (c) and (d). In determining the number of units of each finished form of a controlled substance in a commercial container which has been opened, the dispenser shall do as follows:

(a) If the substance is listed in schedule I or II, he or she shall make an exact count or measure of the contents; and

(b) If the substance is listed in schedule III, IV, V, he or she shall make an estimated count or measure of the contents, unless the container holds more than 1,000 tablets or capsules in which case he or she shall make an exact count of the contents. If estimated counts are utilized, quantities shall be recorded as number of finished doses per container. Fractions of containers may not be utilized.

(c) It is the responsibility of the registrant to determine that any estimates are accurate, as audit procedures will be based upon the inventories maintained by the registrant. The Bureau of Drug Control utilizes exact counts in all audit procedures, and will allow only minor leeway for estimated inventories.

707. Inventories of Importers and Exporters.

Each registered importer or exporter shall include in his or her inventory the same information required of manufacturers pursuant to §§ 704(a), (c), and (d). Each registered importer or exporter who is also registered as a manufacturer or as a distributor shall include in his or her inventory as an importer or exporter only those stocks of controlled substances that are actually separated from his or her stocks as a manufacturer or as a distributor (e.g., in transit or in storage for shipment).

708. Inventories for Chemical Analysis.

Each analytical laboratory registered to conduct chemical analysis with controlled substances shall include in its inventory the same information required of manufacturers pursuant to §§ 704 (a), (c), and (d) as to substances which have been manufactured, imported, or received by the laboratory conducting the inventory. If less than 1 kilogram of any controlled substance (other than a hallucinogenic controlled substance listed in schedule D), or less than 20 grams of a hallucinogenic substance listed in schedule I (other than lysergic acid diethylamide), or less than 0.5 grams of lysergic acid diethylamide, is on hand at the time of inventory, that substance need not be included in the inventory.

PART 800. Continuing Records.

801. General Requirements for Continuing Records.

(a) On and after June 17, 1971 every registrant required to keep records pursuant to § 602 shall maintain on a current basis a complete and accurate record of each such substance manufactured, imported, received, sold, delivered, exported, or otherwise disposed of by him or her, except that no registrant shall be required to maintain a perpetual inventory, except as provided in paragraph (e) of this section.

(b) Separate records shall be maintained by a registrant for each registered location except as provided in § 602. In the event controlled substances are in the possession or under the control of a registrant at a location for which he or she is not registered, the substance shall be included in the records of the registered location to which they are subject to control or to which the person possessing the substance is responsible.

(c) Separate records shall be maintained by a registrant for each independent activity for which he or she is registered, except as provided in § 804.

(d) In recording dates of receipt, importation, distribution, exportation or other transfers, the date on which the controlled substances are actually received, imported, distributed, exported or otherwise transferred shall be used as the date of receipt or distribution of any packing slips.

(e) DHEC, upon a finding that a registrant has maintained inadequate records, or upon a finding that the registrant has a history of poor or inadequate record keeping, may, in its discretion, require perpetual

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inventories of all or a part on the controlled substances possessed or otherwise utilized or handled by such registrant (or an applicant for new registration having a history of record keeping deficiencies) as a condition for granting or renewing controlled substances registration. DHEC, upon a finding that adequate record keeping has been maintained for two or more years, pursuant to a perpetual inventory requirement, may remove the requirement and permit the registrant to resume standard record keeping activities with or without a probationary period of registration, as DHEC deems proper.

802. Records of Manufacture.

Each registered manufacturer shall maintain records with the following information.

(a) For each controlled substance in bulk form to be used, or capable of use in, or being used in, the manufacture of the same or other controlled or non-controlled substance in finished form:

(1) The name of the substance;

(2) The quantity manufactured in bulk form by the registrant, including the date, quantity and batch or other identifying number of each batch manufactured;

(3) The quantity received from other persons, including the date and quantity of each receipt and the name, address, and registration number of the other person from whom the substance was received;

(4) The quantity imported directly by the registrant (under a registration as an importer) for use in manufacture by him or her, including the date, quantity, and import permit or declaration number for each importation;

(5) The quantity used to manufacture the same substance in finished form, including:

(i) The date and batch or other identifying number of each manufacturer;

(ii) The quantity used in the manufacture;

(iii) The finished form (e.g., 10-milligram tablets or 10 milligram concentrate per fluid ounce or milliliter);

(iv) The number of units of finished form manufactured;

(v) The quantity used in quality control;

(vi) The quantity lost during manufacturing and the causes thereof, if known;

(vii) The total quantity of the substance contained in the finished form;

(viii) The theoretical and actual yields; and

(ix) Such other information as is necessary to account for all controlled substances used in the manufacturing process.

(6) The quantity used to manufacture other controlled and non-controlled substances, including the name of each substance manufactured and the information required in subparagraph (5) of this paragraph;

(7) The quantity distributed in bulk form to other persons, including the date and quantity of each distribution and the name, address, and registration number of each person to whom a distribution was made;

(8) The quantity exported directly the registrant (under a registration as an exporter), including the date quantity, and export permit or declaration number of each exportation;

(9) The quantity distributed or disposed of in any other manner by the registrant (e.g., by distribution of complimentary samples or by destruction), including the date and manner of distribution or disposal, the name, address, and registration number of the person to whom distributed, and the quantity distributed or disposed.

(b) For each controlled substance in finished form:

(1) The name of the substance;

(2) Each finished form (e.g., 10-milligram tablet or 10-milligram concentration per fluid ounce or milliliter) and the number of units or volume of finished form in each commercial container (e.g., 100-tablet bottle or 3-milliliter vial);

(3) The number of containers of each such commercial finished form manufactured from bulk form by the registrant, including the information required pursuant to subparagraph (5) of paragraph (a) of this section;

(4) The number of units of finished forms and/or commercial containers received from other persons, including the date of and number of units and/or commercial containers in each receipt and the name, address, and registration number of the person from whom the units were received;

(5) The number of units of finished forms and/or commercial containers imported directly by the registrant (under a registration as an importer), including the date of and the number of units and for commercial containers to each importation;

(6) The number of units and/or commercial containers manufactured by the registrant from units in finished form received from others or imported, including:

(i) The date and batch or other identifying number of each manufacturer;

(ii) The operation performed (e.g., repackaging or re-labeling);

(iii) The number of units of finished form used in the manufacture, the number manufactured and the number lost during manufacture, with the causes therefore, if known; and

(iv) Such other information as is necessary to account for all controlled substances used in the manufacturing process;

(7) The number of commercial containers distributed to other persons, including the date and number of containers in each distribution, and the name, address, and registration number of the person to whom the containers were distributed;

(8) The number of commercial containers exported directly by the registrant (under a registration as an exporter), including the date, number of containers and export permit or declaration number for each exportation; and

(9) The number of units of finished forms and/or commercial containers distributed or disposed of in any other manner by the registrant (e.g., by distribution of complimentary samples or by destruction), including the date and manner of distribution or disposal, the name, address, and registration number of the person to whom distributed, and the quantity in finished form distributed or disposed.

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803. Records for Distributors.

Each registered distributor shall maintain records with the following information for each controlled substance:

- (a) The name of the substance;
- (b) Each finished form (e.g. 10-milligram tablet or 10-milligram concentration per fluid ounce or milliliter) and the number of units or volume of finished form in each commercial container (e.g., 100-tablet bottle or 3-milliliter vial);
- (c) The number of commercial containers of each such finished form received from other persons, including the date of and number of containers in each receipt and the name, address, and registration of the person from whom the containers were received;
- (d) The number of commercial containers of each such finished form imported directly by the registrant (under a registration as an importer), including the date of and the number of containers in each importation;
- (e) The number of commercial containers of each such finished form distributed to other persons, including the date of and number of containers in each distribution and the name, address and registration number of the person to whom the containers were distributed;
- (f) The number of commercial containers of such finished form exported directly by the registrant (under a registration as an exporter), including the date of and the number of containers of each exportation; and
- (g) The number of units or volume of finished forms and/or commercial containers distributed or disposed of in any other manner by the registrant (e.g., by distribution as complimentary samples), including the date and manner of distribution or disposal, the name and address, and registration number of the person to whom distributed or disposed.

804. Records for Dispensers and Researchers.

Each person registered to dispense or conduct research with controlled substances required to keep records pursuant to § 602 shall maintain records with the following information for each controlled substance:

- (a) The name of the substance;
- (b) Each finished form (e.g., 10-milligram tablet or 10-milligram concentration per fluid ounce or milliliter) and the number of units or volume of finished form in each commercial container (e.g., 100-tablet bottle or 3-milliliter vial);
- (c) The number of commercial containers of each such finished form received from other persons, including the date of and number of containers in each receipt and the name, address, and registration number of the person from whom the containers were received;
- (d) The number of units or volume of such finished form dispensed, including the name and address of the person to whom it was dispensed, the date of dispensing, the number of units or volume dispensed, and the written or typewritten name or initials of the dispenser; and
- (e) The number of units or volume of such finished form and/or commercial containers disposed of in any other manner by the registrant, including the date and manner of disposal and the quantity of the substance in finished form disposed.

805. Records for Importers.

Each registered importer shall maintain records with the following information for each controlled substance:

(a) The name of the substance;

(b) The quantity (or number of units or volume in finished form) imported, including the date, quantity (or number of units or volume), and import permit or declaration number for each importation;

(c) The quantity (or number of units or volume in finished form) distributed to other persons, including the date and quantity (or number of units or volume) of each distribution and the name, address, and registration number of each person to whom a distribution was made; and

(d) The quantity disposed of in any other manner by the registrant, except quantities used for manufacturing by an importer under a registration as a manufacturer, which quantities are to be recorded pursuant to § 802(a)(4) or (b)(5) including the date and manner of disposal and the quantities disposed.

806. Records of Exporters.

Each registered exporter shall maintain records with the following information for each controlled substance:

(a) The name of the substance;

(b) The quantity or number of units (or volume in finished form) received from other persons, including the date and quantity (or number of units or volume) of each receipt and the name, address, and registration number of each person from whom the substance was received;

(c) The quantity (or number of units or volume in finished form) exported, including the date, quantity or number of units or volume), and the export permit or declaration number for each exportation, but excluding all quantities (and numbers of units and volumes) manufactured by an exporter under a registration as a manufacturer, which quantities (and numbers of units and volumes) are to be recorded pursuant to § 802 (a)(8) or (b)(8); and

(d) The quantity disposed of in any other manner by the registrant including the date and manner of disposal and the quantity disposed.

807. Records for Chemical Analysis.

(a) Each person registered to conduct chemical analysis with controlled substances shall maintain records, with the following information (to the extent known and reasonably ascertainable by him or her) for each controlled substance:

(1) The name of the substance;

(2) The form or forms in which the substance is received, imported, or manufactured by the registrant (e.g., powder, granulation, tablet, capsules, or solution) and the concentration of the substance in such form (e.g., C.P., U.S.P., N.F., 10-milligram concentration per milliliter);

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(3) The total number of the forms received, imported, or manufactured (e.g., 100 tablets, thirty 1-milliliter vials, or 10 grams of powder), including the date and quantity of each receipt, importation, or manufacture and the name, address, and registration number, if any, of the person from whom the substance was received;

(4) The quantity distributed, exported, or destroyed in any manner by the registrant (except quantities used in chemical analysis or other laboratory work), including the date and manner of distribution, exportation or destruction, and the name, address, and registration number, if any, of each person to whom the substance was distributed or exported.

(b) Order forms, import and export permits, import invoices, and export declarations, relating to controlled substances shall be maintained separately from all other records of the registrant.

(c) Records of controlled substances used in chemical analysis or other laboratory work are not required.

(d) Records relating to known or suspected controlled substances received as samples for analysis are not required under paragraph (a) of this section.

808. Reports.

Manufacturers, re-packers, re-labelers, importers, exporters, and distributors who are required to report to ARCOS systems of the DEA, U.S. Department of Justice, need not file copies of such reports with the Bureau of Drug Control, but such registrants shall make copies of the reports available to the Bureau of Drug Control upon its written or oral request. Substantial compliance with the provisions of 21 CFR §§ 1304.31 through 1304.33 shall be deemed sufficient compliance with state reporting requirements.

809. Records for Maintenance Treatment Programs and Detoxification Treatment Programs.

(a) Each person registered or authorized by DHEC to maintain and/or detoxify controlled substances users in a narcotic treatment program shall maintain records with the following information for each narcotic controlled substance:

- (1) Name of substance;
- (2) Strength of substance;
- (3) Dosage form;
- (4) Date dispensed;
- (5) Adequate identification of the patient (consumer);
- (6) Amount consumed;
- (7) Amount and dosage form taken home by patient; and
- (8) Dispenser's initials.

(b) The records required by paragraph (a) of this section will be maintained in a dispensing log at the narcotic treatment program site and will be maintained in compliance with § 804 without reference to § 602.

(c) All sites which compound a bulk narcotic solution from bulk narcotic powder to liquid for on-site use, shall keep a separate batch record of the compounding.

(d) Records of identity, diagnosis, prognosis, or treatment of any patients which are maintained in connection with the performance of a narcotic treatment program shall be confidential, except that such records may be disclosed for purposes and under the circumstances authorized by this regulation and any other state or federal law or regulation.

810. Records for Treatment Programs Which Compound Narcotics for Treatment Programs and Other Locations.

Each person registered or authorized under the provisions of Section 107 of this Regulation to compound narcotic drugs for off-site use in a narcotic treatment program shall maintain records which include the following information for each narcotic drug:

(a) For each narcotic controlled substance in bulk form to be used in, or capable of being used in, or being used in the compounding of the same or other non-controlled substances in finished form:

(1) The name of the substance;

(2) The quantity compounded in bulk form by the registrant, including the date, quantity and batch or other identifying number of each batch compounded;

(3) The quantity received from other persons, including the date and quantity of each receipt and the name, address, and registration number of the other person from whom the substance was received;

(4) The quantity imported directly by the registrant (under a registration as an importer) for use in compounding by him or her, including the date, quantity, and import permit or declaration number of each importation;

(5) The quantity used to compound the same substance in finished form, including:

(i) The date and batch or other identifying number of each compounding;

(ii) The quantity used in the compound;

(iii) The finished form (e.g., 10-milligram tablets; 10 mg/ml per fluidounce, etc.);

(iv) The number of units of finished form compounded;

(v) The quantity used in quality control;

(vi) The quantity lost through compounding and the causes therefore, if known;

(vii) The total quantity of the substance contained in the finished form;

(viii) The theoretical and actual yields;

(ix) Such other information as is necessary to account for all controlled substances used in the compounding process;

(6) The quantity used to manufacture other controlled and non-controlled substances, including the name of each substance manufactured and the information required in paragraph (a) (5) of this section;

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(7) The quantity distributed in bulk form to other programs, including the date and quantity of each distribution, and the name, address, and registration number of each program to whom a distribution was made;

(8) The quantity exported directly by the registrant (under a registration as an exporter), including the date, quantity, and export permit or declaration number of each exportation; and

(9) The quantity disposed of by destruction, including the reason, date, and manner of destruction. All other destruction of narcotic controlled substances will comply with § 1501.

(b) For each narcotic controlled substance in finished form:

(1) The name of the substance;

(2) Each finished form and the number of units or volume or finished form in each commercial container (e.g., 100-tablet bottle or 3 ml. ampoule, etc.);

(3) The number of containers of each such commercial finished form compounded from bulk form by the registrant, including the information required by paragraph (a) (5) of this section;

(4) The number of units of finished forms and/or commercial containers received from other persons, including the date of and number of units and/or commercial containers in each receipt and the name, address, and registration number of the person from whom the units were received;

(5) The number of units of finished forms and/or commercial containers imported directly by the person (under a registration or authorization to import), including the date of, the number of units and/or commercial containers in, and the import permit or declaration number for, each importation;

(6) The number of units and/or commercial containers compounded by the registrant from units in finished form received from others or imported, including:

(i) The date and batch or other identifying number of each compounding.

(ii) The operation performed (e.g., repackaging or re-labeling);

(iii) The number of units of finished form used in the compound, the number compounded, and the number lost during compounding, with the causes for such losses, if known;

(iv) Such other information as is necessary to account for all controlled substances used in the compounding process.

(7) The number of containers distributed to other programs, including the date, the number of containers in each distribution, and the name, address, and registration number of the program to whom the containers were distributed;

(8) The number of commercial containers exported directly by the registrant (under a registration as an exporter), including the date, number of containers, and export permit or declaration number for each exportation; and

(9) The number of units of finished forms and/or commercial containers destroyed in any manner by the registrant, including the reason, the date, and manner of destruction. All other destruction of narcotic controlled substances will comply with § 1501.

PART 900. Order Forms.**901. Execution of Order Forms.**

DEA Form 222 as issued by the DEA, U.S. Department of Justice, as required by the Federal Controlled Substances Act (21 USC 828) when properly executed and filed will be deemed a sufficient order form as required by the Act.

902. Handling and Filing.

Handling and filing of order forms, and electronic orders, shall be accomplished in the manner provided under Part 1305, 21 C.F.R. (Regulations of the DEA, United States Department of Justice.)

903. Power of Attorney.

Any purchaser may authorize one or more individuals, whether or not located at the registered location of the purchaser, to obtain and execute order forms on his or her behalf by executing a power of attorney for each such individual. The power of attorney shall be signed by the same person who signed (or was authorized to sign) the most recent application for registration or re-registration and by the individual being authorized to obtain and execute order forms. The power of attorney shall be filed with the executed order forms of the purchaser, and shall be retained for the same period as any order form bearing the signature of the attorney. The power of attorney shall be available for inspection together with other order form records. Any power of attorney shall be available for inspection together with other order form records. Any power of attorney may be revoked at any time by executing a notice of revocation, signed by the person who signed (or was authorized to sign) the power of attorney or by a successor, whoever signed the most recent application for registration or re-registration, and filing it with the power of attorney being revoked. The forms are available from Director of the Bureau of Drug Control, DHEC, 2600 Bull Street, Columbia, SC 29201.

PART 1000. Prescriptions.**1001. Persons Entitled to Issue Prescriptions.**

(a) A prescription for a controlled substance may be issued only by an individual practitioner who is:

(1) Licensed by the S.C. Board of Medical Examiners, S.C. Board of Dentistry, S.C. Board of Veterinary Medicine Examiners, S.C. Board of Nursing, S.C. Board of Examiners in Optometry, or the S.C. Board of Podiatry Examiners, and is authorized to prescribe under the type of license issued by the pertinent Board to the individual practitioner; and

(2) Acting in the regular course of professional practice, e.g., a veterinarian prescribing for a human is not within the regular course of professional practice, nor is a dentist when prescribing for illnesses or disease other than those of the oral cavity and adjacent tissues, nor is a podiatrist when prescribing for treatment of disease other than those manifesting themselves in the foot; and

(3) Registered with DHEC under the provisions of the Act.

(b) A prescription issued by an individual practitioner may be communicated to a pharmacist by an employee or agent of the individual practitioner. The individual practitioner may not delegate the act of prescribing (i.e., the decision-making process whether to issue a prescription, what drug or substance to prescribe, what dosage, what frequency, and whether to refill the prescription) to a person not authorized to issue a prescription in his or her own right as an individual practitioner.

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Example: A nurse or other employee of a physician may transmit an oral prescription (if permissible as a Schedule III, IV, or V substance) to a pharmacist if authorized to do so by the prescribing physician; the transmitting person has no authority to make any change whatsoever in the order of the practitioner, nor to add or delete any information to be transmitted.

1002. Purpose of Issue of Prescription.

(a) A prescription for a controlled substance to be effective shall be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of the Act and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.

(b) A prescription may not be issued in order for an individual practitioner to obtain controlled substances for supplying the individual practitioner for the purpose of general dispensing to patients.

(c) A prescription may not be issued for the dispensing of narcotic drugs listed in any schedule to a narcotic drug dependent person for the purpose of continuing his or her dependence upon such drugs whether or not in the course of conducting an authorized clinical investigation in the development of a narcotic rehabilitation program.

1003. Manner of Issuance of Prescription.

All prescriptions for controlled substances shall be dated as of the day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use and the name, address, and registration number of the practitioner.

(a) Written prescriptions. A practitioner shall sign a prescription on the day when issued and in the same manner as he or she would sign a check or legal document (e.g., J. H. Smith or John H. Smith). Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter, or other mechanical means of printing, and shall be manually signed by the practitioner. The prescriptions may be prepared by a secretary or agent for the signature of a practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the law and regulations. A corresponding liability rests upon the pharmacist who fills a prescription not prepared in the form prescribed by this regulation. See also § 1001(b).

(b) Electronic prescriptions. Existing DEA regulations provide practitioners with the option of transmitting electronic prescriptions for controlled substances in lieu of paper prescriptions. In an effort to ensure the integrity of these electronic prescriptions, the electronic application shall comply with the current DEA regulations prior to use.

1004. Registration Number Required on Prescriptions.

All prescriptions for controlled substances, whether written by the practitioner or telephoned and subsequently reduced to writing, shall bear the Federal Controlled Substances Registration Number (DEA Number) of the prescribing practitioner.

1005. Persons Entitled to Fill Prescriptions.

A prescription for controlled substances may only be filled by a pharmacist acting in the usual course of his or her professional practice and either registered individually or employed in a registered pharmacy or registered institutional practitioner.

1006. Information Required for Filled Prescriptions.

A notation shall be placed upon any prescription for controlled substances when originally filled that shall indicate the date filled, the identity or initials of the pharmacist dispensing the prescription and, if different from the quantity prescribed, the quantity dispensed.

1007. Dispensing of Narcotic Drugs for Maintenance Purposes.

The administering or dispensing directly (but not prescribing of) narcotic drugs listed in any schedule to a narcotic drug dependent person for the purpose of continuing his or her dependence upon such drugs in the course of conducting an authorized clinical investigation in the development of a narcotic addict rehabilitation program shall be deemed to be within the meaning of the term "in the course of his or her professional practice or research" in the Act, provided, that approval is obtained prior to the initiation of such a program by submission of a Notice of Claimed Investigational Exemption for a New Drug to the Food and Drug Administration which will be reviewed concurrently by the Food and Drug Administration for scientific merit and by the DEA for drug control requirements, and that the clinical investigation thereafter accords with such approval.

1008. Federal Approval of Maintenance Programs Required.

DHEC will not register any person to conduct an authorized maintenance program for drug dependent persons until approval of such program has been made by the appropriate federal agencies. Upon approval by these agencies, the Bureau of Drug Control shall accept the application for registration as complete.

1009. Withdrawal of Drug Dependent Persons by Use of Methadone or Other Narcotic Controlled Substances.

Practitioners desiring to withdraw, but not maintain, drug dependent persons addicted to narcotic controlled substances from such substances by the use of methadone or any other schedule II narcotic controlled substance, may do so provided that all of the following criteria are met:

- (a) The drug dependent person shall be a narcotic addict.
- (b) The drug dependent person shall be confined to a hospital, clinic, rest home, or other appropriate location that properly segregates the drug dependent person from contact with possible illicit suppliers.
- (c) The withdrawal program shall be on a reducing dosage basis, preferably through use of oral administration of the narcotic controlled substance used for withdrawal.
- (d) Withdrawal treatment shall not exceed 21 days in length and shall not be available to any drug dependent person more often than once every six months. If, in the opinion of the withdrawing practitioner, longer periods of withdrawal treatment are necessary, application for such longer treatment shall be made to the Director stating the reasons therefore, along with pertinent medical facts including, but not limited to, the following:

- (1) Medical condition of subject at onset of withdrawal treatment;

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(2) Amount of drug intake and name of drug at onset of treatment;

(3) Initial withdrawal dosage of methadone (or other narcotic controlled substance);

(4) Reduction schedule of withdrawal substance;

(5) Current medical evaluation of withdrawal regimen;

(6) Statement concerning presence or absence from urine sample of drug dependent person of the drug to which he or she was addicted; and

(7) Any other pertinent facts deemed necessary by the withdrawing practitioner or by the Director.

(e) Any maintenance facility shall be approved by DHEC and the appropriate federal agencies.

1010. Approved Uses of Methadone in Hospitals. Methadone is Approved for the Following Uses for Inpatients of Hospitals Licensed by DHEC:

(a) Analgesia;

(b) Pertussis;

(c) Detoxification (withdrawal) of drug dependent persons under conditions set forth in Section 1009 of this regulation; or

(d) Temporary maintenance of methadone treatment of a drug dependent person enrolled in a methadone maintenance program licensed by any state or the federal government while such person is institutionalized within a licensed hospital for medical treatment of an illness or malady medically unrelated to drug dependence.

1011. Departmental Approval; When Required.

(a) Prior approval by DHEC for methadone use as set forth in § 1010 of this regulation is not required.

(b) Prior approval of DHEC and registration as provided by Title 21, § 1301.22(a)(6) of the Code of Federal Regulations and S.C. Code Ann. § 44-53-290(i), is required of all persons desiring to operate a treatment program utilizing methadone (i.e., a "methadone maintenance program").

(c) Prior approval by DHEC in the manner set forth by § 1012 of this regulation is not required to dispense methadone to outpatients of a hospital licensed by DHEC. Prior approval of DHEC is not required for "take home" methadone preparations which are lawfully dispensed by a methadone maintenance treatment facility.

(d) Approvals by DHEC, as required by §§ 1009 through 1012 of this regulation, may be granted by the Bureau of Drug Control in its discretion. If the Bureau finds that it cannot approve a request, the request shall be submitted to the Director, along with the Bureau's reasons for non-approval. The Director, in his or her discretion, may then approve or deny the request, but if he or she shall deny such request, the person making the request shall be entitled to a hearing to determine the public interest, in the manner provided for "contested cases" in the South Carolina Administrative Procedures Act.

(e) DHEC may require further information from any applicant in order to obtain sufficient information to be utilized in approving or denying any request.

1012. Treatment of Outpatients with Methadone.

(a) If a physician determines that methadone would be the drug of choice as an analgesic for a particular patient, the physician may issue prescriptions for methadone to the patient. Such prescriptions may be dispensed by any pharmacy that has agreed to perform such dispensing function.

(b) The treating physician shall agree to maintain adequate records to substantiate the use of methadone as an analgesic for the patient and shall make such records available to DHEC upon request.

PART 1100. Controlled Substances Listed in Schedule II.**1101. Requirement of Prescription.**

(a) A pharmacist may dispense directly a controlled substance listed in schedule II, which is a prescription drug as determined under the Act, pursuant to one of the following methods:

- (1) As a written prescription signed by the prescribing individual practitioner;
- (2) As an electronic prescription transmitted in accordance with § 1003(b); or
- (3) As provided in paragraphs (d) through (g) of this section.

(b) An individual practitioner may administer or dispense directly a controlled substance listed in schedule II in the course of his or her professional practice without a prescription subject to § 1006.

(c) An institutional practitioner may administer or dispense directly (but not prescribe) a controlled substance listed in schedule II only pursuant to a written prescription signed by the prescribing individual practitioner or to an order for medication made by an individual practitioner which is dispensed for immediate administration to the ultimate user.

(d) In the case of an emergency situation, a pharmacist may dispense a controlled substance listed in schedule II upon receiving oral authorization of a prescribing individual practitioner, provided that:

(1) The quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the emergency period (dispensing beyond the emergency period shall be pursuant to a written prescription signed by the prescribing individual practitioner);

(2) The prescription shall be immediately reduced to writing by the pharmacist and shall contain all information requested in § 1003 except for the signature of the prescribing individual practitioner;

(3) If the prescribing individual practitioner is not known to the pharmacist, he or she shall make a reasonable effort to determine that the oral authorization came from a registered individual practitioner, which may include a callback to the prescribing individual practitioner using his or her phone number as listed in the telephone directory and/or other good faith efforts to insure his or her identity; and

(4) Within 72 hours after authorizing an emergency oral prescription, the prescribing individual practitioner shall cause a written prescription for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to the requirements of § 1003, the prescription shall have written on its face "Authorization for Emergency Dispensing" and the date of the oral order. The written prescription may be delivered to the pharmacist in person or by mail, but if delivered by mail it shall be postmarked within the 72-hour period. Upon receipt, the dispensing pharmacist shall attach this prescription to the oral emergency prescription which had earlier been reduced to writing. The pharmacist shall notify the Bureau Director if the prescribing individual practitioner fails to deliver a written prescription to him or her;

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failure of the pharmacist to do so shall void the authority conferred by this paragraph to dispense without a written prescription of a prescribing individual practitioner.

(e) A prescription prepared in accordance with § 1003 written for a Schedule II narcotic controlled substance, to be compounded for the direct administration to a patient by parenteral, intravenous, intra-muscular, subcutaneous or intra-spinal infusion, may be transmitted by the practitioner or the practitioner's agent by facsimile to a home infusion pharmacy. The facsimile serves as the original prescription for the purposes of this paragraph (e) and it shall be maintained in accordance with § 603. The written, signed prescription shall be maintained in the medical record of the patient.

(f) A prescription prepared in accordance with § 1003 written for a Schedule II substance for a resident of a long term care facility may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The facsimile serves as the original written prescription for purposes of this paragraph (f) and it shall be maintained in accordance with Section 603 (d). The written, signed and voided prescription shall be maintained in the medical record of the patient. This paragraph (f) is not applicable to prescriptions issued for residents of community residential care facilities or assisted living facilities.

(g) A prescription prepared in accordance with § 1003 written for a Schedule II narcotic controlled substance for a patient enrolled in a hospice care program certified and/or paid for by Medicare under Title XVIII of the Social Security Act, or a hospice program which is licensed by DHEC may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The practitioner or the practitioner's agent shall note on the prescription that the patient is a hospice patient. The facsimile serves as the original written prescription for purposes of this paragraph (g) and shall be maintained in accordance with § 603 (d). The written, signed, and voided prescription shall be maintained in the medical record of the patient.

1102. Limitations on Prescriptions for Schedule II Substances.

Prescriptions for schedule II controlled substances shall not be issued for more than a thirty-one day supply of the substance. No prescription for schedule II controlled substances shall be dispensed later than 90 days from the date of issue.

1103. Practitioner-Patient Relationship Required.

Prior to the issuance of a prescription for, or the direct dispensing of any schedule II controlled substances, the prescribing practitioner shall have a valid practitioner-patient relationship established with the recipient of the prescription, such relationship to include, but not be limited to, a sufficient knowledge of the medical need of the patient for such schedule II controlled substance, determination of the benefit to risk ratio of the use of such substance, good faith determination of the identity and address of the patient, a determination of the physical condition of the patient, and such practitioner shall be in personal attendance of the patient at the time of issuance of the prescription. Any prescription issued by any practitioner for any person outside of the reasonable bounds of a practitioner-patient relationship shall be deemed issued other than in the course of professional practice required by the Act. A practitioner cannot usually acquire a valid patient-practitioner relationship with himself or herself, or with a member of his or her immediate family, due to the likelihood of the loss of or the vitiation of the objectivity required in making the necessary medical decisions in order to properly prescribe or dispense controlled substances. The practitioner may not be able to acquire a sufficient practitioner-patient relationship with non-family members (i.e., fiancé or fiancée, close personal friend, paramour, etc.) if total objectivity in deciding to prescribe or dispense controlled substances cannot be maintained due to such factors as extreme compassion, ardor, extortion, etc. which would vitiate such objectivity. In the event of a bona fide emergency situation, where great detriment to the health or safety of a patient may be involved, a practitioner may administer, dispense or prescribe limited amounts of controlled substances to any person, notwithstanding the provisions of this Section, until such time as another objective practitioner can be contacted.

1104. Refilling Prescription.

The refilling of a prescription for a controlled substance listed in schedule II is prohibited.

1105. Partial Filling of Prescription.

(a) The partial filling of a prescription for a controlled substance listed in schedule II is permissible, if the pharmacist is unable to supply the full quantity called for in a written or emergency oral prescription and he makes a notation of the quantity supplied on the face of the written prescription (or written record of the emergency oral prescription). The remaining portion of the prescription may be filled within 72 hours of the first partial filling; however, if the remaining portion is not or cannot be filled within the 72-hour period, the pharmacist shall so notify the prescribing individual practitioner. No further quantity may be supplied beyond 72 hours without a new prescription.

(b) Prescriptions for schedule II controlled substances issued for patients in long term care facilities (LTCF) or for a patient with a medical diagnosis documenting a terminal illness may be dispensed in partial quantities, to include individual dosage units. If there is any question whether a patient may be classified as having a terminal illness, the pharmacist shall contact the practitioner prior to partially filling the prescription. Both the pharmacist and the prescribing practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient. The pharmacist shall record on the prescription whether the patient is "terminally ill" or LTCF patient." A prescription that is partially filled and does not contain the notation "terminally ill" or "LTCF patient" shall be deemed to have been filled in violation of the Act. For each partial dispensing, the pharmacist shall record on the back of the prescription the date of the partial dispensing, the quantity dispensed, the remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist. Prior to any subsequent partial filling the pharmacist is to determine that the additional partial filling is necessary. The total quantity of Schedule II controlled substances dispensed in all partial dispensings shall not exceed the total quantity prescribed. Schedule II prescriptions, for patients in a LTCF or patients with a medical diagnosis documenting a terminal illness shall be valid for a period not to exceed 60 days from the issue date unless sooner terminated by the discontinuance of medication. This paragraph (b) is not applicable to prescriptions issued for residents of community residential care facilities or assisted living facilities.

(c) Information pertaining to current Schedule II prescriptions for patients in a LTCF may be maintained in a computerized system if this system has the capability to permit:

(1) Output (display or printout) of the original prescription number, date of issue, identification of prescribing individual practitioner, identification of patient, identification of LTCF, identification of medication authorized (to include dosage form, strength and quantity), listing of partial dispensings that have been dispensed under each prescription and the information required in paragraph (b) of this section.

(2) Immediate (real time) updating of the prescription record each time a partial dispensing of the prescription is conducted.

(3) Retrieval of partially dispensed Schedule II prescription information is the same as required by §§ 1202(b)(4) and (5) for Schedule III, IV, and V prescription refill information.

1106. Labeling of Substance.

The pharmacist filling a written or emergency oral prescription for a controlled substance listed in schedule II shall affix to the package a label showing the drug name, the quantity dispensed, the date of filling, the pharmacy name and address, the serial number of the prescription, the name of the patient, the name of the prescribing practitioner, and directions for use and cautionary statements, if any, contained in such prescription or required by law. See also § 1918.

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1107. Filing of Prescriptions.

All written prescriptions and written records of emergency oral prescriptions shall be kept in accordance with requirements of § 603.

PART 1200. Controlled Substances Listed in Schedules III, IV, and V.

1201. Requirement of Prescription.

(a) A pharmacist may dispense a controlled substance listed in schedule III, IV, or V which is a prescription drug as determined under the Act, only pursuant to one of the following methods:

(1) A written prescription signed by a prescribing individual practitioner;

(2) An electronic prescription transmitted in accordance with § 1003(b);

(3) An oral prescription made by a prescribing individual practitioner and promptly reduced to writing by the pharmacist containing all information required in § 1003, except for the signature of the prescribing individual practitioner; or

(4) A facsimile of a written, signed prescription, transmitted by the practitioner or the practitioner's agent to the pharmacy. A prescription transmitted by facsimile must be received at the pharmacy as it was originally transmitted by facsimile and must include the name and address of the practitioner, the phone number for verbal confirmation, the time and date of transmission, and the name of the pharmacy intended to receive the transmission, as well as any other information required by federal or state law.

(b) An individual practitioner may administer or dispense a controlled substance listed in schedule III, IV, or V in the regular course of his or her professional practice without a prescription.

(c) An institutional practitioner may administer or dispense directly (but not prescribe) a controlled substance listed in schedule III, IV, or V pursuant to a written prescription signed by a prescribing individual practitioner, or pursuant to an oral prescription made by a prescribing individual practitioner and promptly reduced to writing by the pharmacist (containing all information required in § 1003 except for the signature of the prescribing individual practitioner), or pursuant to an order for medication made by an individual practitioner which is dispensed for immediate administration to the ultimate user.

1202. Refilling of Prescriptions.

(a) No prescription for a controlled substance listed in schedule III, IV, or V shall be filled or refilled more than six months after the date on which such prescription was issued and no such prescription may be refilled more than five times. Additional quantities of controlled substances listed in schedule III, IV, or V may only be authorized by a prescribing practitioner through issuance of a new prescription as provided in § 1201 which shall be a new and separate prescription.

(b) An automated data processing system may be used for the storage and retrieval of refill information for prescription orders for controlled substances in Schedules III, IV, and V, subject to the following conditions:

(1) Any such proposed computerized system shall provide online retrieval (via CRT display or hard-copy printout) information for those prescription orders which are currently authorized for refilling. This shall include, but is not limited to data such as the original prescription number, date of issuance of the original prescription order by the practitioner, full name and address of the patient, name, address, and DEA registration number of the practitioner, and the name, strength, dosage form, quantity of the controlled

substance prescribed (and quantity dispensed if different from the quantity prescribed), and the total number of refills authorized by the prescribing practitioner.

(2) Any such proposed computerized system shall also provide on-line retrieval (via CRT display or hard-copy printout) of the current refill history for Schedule III, IV, or V controlled substance prescription orders (those authorized for refill during the past six months). This refill history shall include, but is not limited to, the name of the controlled substance, the date of refill, the quantity dispensed, the identification code, or name or initials of the dispensing pharmacist for each refill and the total number of refills dispensed to date for that prescription order.

(3) Documentation of the fact that the refill information entered into the computer each time a pharmacist refills an original prescription order for a Schedule III, IV, or V controlled substance is correct shall be provided by the individual pharmacist who makes use of such a system. If such a system provides a hard-copy of each day's controlled substance prescription order refill data, that print-out shall be verified, dated, and signed by the individual pharmacist who refilled such a prescription order. The individual pharmacist shall verify that the data indicated is correct and then sign this document in the same manner as he or she would sign a check or legal document (e.g. J.H. Smith or John H. Smith). This document shall be maintained in a separate file at that pharmacy for a period of two years from the dispensing date. This printout of the day's controlled substance prescription order refill data shall be provided to each pharmacy using such a computerized system within 72 hours of the date on which the refill was dispensed. It shall be verified and signed by each pharmacist who is involved with such dispensing. In lieu of such a printout, the pharmacy shall maintain a bound log book, or separate file, in which each individual pharmacist involved in such dispensing shall sign a statement (in the manner previously described) each day, attesting to the fact that the refill information entered into the computer that day has been reviewed by him or her and is correct as shown. Such a book or file shall be maintained at the pharmacy employing such a system for a period of two years after the date of dispensing the appropriately authorized refill.

(4) Any such computerized system shall have the capability of producing a print-out of any refill data which the user pharmacy is responsible for maintaining under the Act and its implementing regulation. For example, this would include a refill-by-refill audit trail for any specified strength and dosage form of any controlled substance (by either brand or generic name or both.) Such a print-out shall indicate name of the prescribing practitioner, name and address of the patient, quantity dispensed on each refill, date of dispensing for each refill, name or identification code of the dispensing pharmacist and the number of the original prescription order. In any computerized system employed by a user pharmacy the central record-keeping location shall be capable of sending the print-out to the pharmacy within 48 hours, and if a DEA Special Agent or compliance Investigator or an Inspector from DHEC requests a copy of such print-out from the user pharmacy it shall, if requested to do so by the Agent, Investigator, or Inspector verify the print-out transmittal capability of its system by documentation (e.g. postmark).

(5) In the event that a pharmacy which employs such a computerized system experiences system down-time, the pharmacy shall have an auxiliary procedure which will be used for the documentation of refills of Schedule III, IV, and V controlled substance prescription orders. This auxiliary procedure shall insure that refills are authorized by the original prescription order, that the maximum number of refills has not been exceeded, and that all of the appropriate data is retained for on-line data entry as soon as the computer system is available for use again.

(c) When filing refill information for original prescription orders for Schedule III, IV, or V controlled substances, a pharmacy may use the system described in either paragraph (a) or (b) of this section.

1203. Limitations on Prescriptions for Schedules III, IV, and V Substances.

Prescriptions for controlled substances listed in Schedules III, IV, and V shall not be issued for more than a 90 day supply of the substance. If authorized for refill, no prescription shall be refilled sooner than 48 hours

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prior to the time that the prescription should be consumed if the prescribed daily dosage is divided into the total prescribed amount. (Example: 4 daily divided into 100 dosage units = 25 days.) Carry over time shall not accrue between refills. In the event that the practitioner does not specify an exact daily dosage, the dispenser shall calculate date of refill from the usual daily dosage recommended by the manufacturer of the controlled substance.

1204. Practitioner-Patient Relationship Required.

Prior to the issuance of a prescription for controlled substances listed in Schedule III, IV, or V the prescribing practitioner shall have a valid practitioner-patient relationship established with the recipient of the prescription, such relationship to include, but not be limited to, a sufficient knowledge of the medical need of the patient for such schedule III, IV, or V controlled substance, determination of the benefit to risk ratio of the use of such substance, good faith determination of the identity and address of the patient, a determination of the physical condition of the patient, and such practitioner shall be in personal attendance of the patient at the time of issuance of the prescription. Any prescription issued by any practitioner for any person outside of the reasonable bounds of a practitioner-patient relationship shall be deemed issued other than in the course of professional practice required by the Act. A practitioner cannot usually acquire a valid patient-practitioner relationship with himself or herself, now with a member of his or her immediate family, due to the likelihood of the loss or vitiation of the objectivity required in making the necessary medical decisions in order to properly prescribe or dispense controlled substances. The practitioner may not be able to acquire a sufficient practitioner-patient relationship with non-family members (i.e., fiancé or fiancée, close personal friend, paramour, etc.) if total objectivity in deciding to prescribe or dispense controlled substances cannot be maintained due to such factors as extreme compassion, ardor, extortion, etc. which would vitiate such objectivity. In the event of a bona fide emergency situation, where great detriment to the health or safety of a patient may be involved, a practitioner may administer, dispense or prescribe limited amounts of controlled substances to any person, notwithstanding the provisions of this Section, until such time as another objective practitioner can be contacted.

1205. Partial Filling of Prescriptions.

The partial filling (dispensing) of a prescription for a controlled substance listed in Schedules III, IV, or V is permissible, provided that:

- (a) Each partial filling is recorded in the same manner as a refilling;
- (b) The total quantity dispensed in all partial fillings does not exceed the total quantity prescribed; and
- (c) No dispensing occurs after six months from the date on which the prescription was issued.

1206. Labeling of Substances.

The pharmacist filling a prescription for a controlled substance listed in schedule III, IV, or V shall affix to the package a label showing the pharmacy name and address, the drug name, the quantity dispensed, the serial number of the prescription and the date of the initial filling, the name of the patient, the name of the practitioner issuing the prescription, and directions for use and cautionary statements, if any, contained in such prescriptions as required by law.

1207. Filing Prescriptions.

All prescriptions for controlled substances listed in schedules III, IV, and V shall be kept in accordance with § 603.

1208. Controlled Substances Listed in Schedule V – Dispensing Without a Prescription.

A controlled substance in Schedule V, which is not a prescription drug as determined under the Act, may be dispensed by a pharmacist without a prescription to a purchaser at retail, provided that:

(a) Such distribution is made only by a pharmacist and not by a non-pharmacist employee even if under the direct supervision of a pharmacist (although after the pharmacist has fulfilled his or her professional and legal responsibilities set forth in this section, the actual cash, credit transaction, or delivery, may be completed by a non-pharmacist):

(b) Not more than 120 ml. (4 ounces) of any controlled substance listed in Schedule V may be distributed at retail to the same purchaser in any given 48-hour period;

(c) The purchaser is at least 18 years of age;

(d) The pharmacist requires every purchaser of a controlled substance listed in Schedule V not known to him or her to furnish suitable identification (including proof of age where appropriate);

(e) A bound record book for distributions of controlled substances listed in Schedule V (other than by prescription) is maintained by the pharmacist, which book shall contain the name and address of the purchaser, the name and quantity of controlled substance purchased, the date of each purchase, and the name or initials of the pharmacist who distributed the substance to the purchaser (the book shall be maintained in accordance with the record keeping requirement of § 603 of this chapter); and

(f) A prescription is not required for distribution or dispensing of the substance pursuant to the Act or any other law.

(g) Repetitive sales without prescription of Schedule V controlled substances without positive determination of medical need by the pharmacist selling the non-prescription controlled substance shall be deemed dispensing for other than medical purposes, and shall be prima facie evidence of detriment to the public health and safety.

PART 1300. Miscellaneous.**1301. Severability.**

If a provision of any section of Part 100 through 1900 of this regulation is held invalid, all valid provisions that are severable shall remain in effect. If a provision of any of this regulation is held invalid in one or more of its applications, the provision shall remain in effect in all its valid applications that are severable.

1302. Application of Other Laws.

Nothing in this regulation shall be construed as authorizing or permitting any person to do any act which such person is not authorized or permitted to do under federal laws or obligations under international treaties, conventions or protocols, or under the law of the state in which he desires to do such act nor shall compliance with such Parts be construed as compliance with other federal or state laws unless expressly provided in such other laws.

1303. Exceptions in Regulations.

Any person may apply for an exception to the application of any provision of these regulations by filing a written request stating the reasons for such exception. Requests shall be filed with the Bureau Director. The

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Bureau Director may grant an exception in his or her discretion, but in no case shall he or she be required to grant an exception to any person which is not otherwise required by law or the regulations cited in this section.

PART 1400. Special Exceptions for Manufacture and Distribution of Controlled Substances.

1401. Distribution by Dispenser to Another Practitioner.

(a) A practitioner who is registered to dispense a controlled substance may distribute (without being registered to distribute) a quantity of such substance to another practitioner for the purpose of general dispensing by the practitioner to his or her patients, provided that;

(1) The practitioner to whom the controlled substance is to be distributed is registered under the Act to dispense that controlled substance;

(2) The distribution is recorded by the distributing practitioner in accordance with § 804(e) of this regulation and by the receiving practitioner in accordance with § 804(c) of this regulation;

(3) If the substance is listed in Schedule I or II, an order form (DEA Form 222) is used as required by Part 4 of this regulation;

(4) The total number of dosage units of all controlled substances distributed by the practitioner pursuant to this section during any 12 month period does not exceed five percent of the total number of dosage units of all controlled substances distributed and dispensed by the practitioner during the twelve month period. Registrants in existence less than 12 months shall prorate the time period, and shall not distribute more than five percent of the dispensings for any monthly period.

(b) If, at any time during any consecutive 12 month period during which the practitioner is registered to dispense, there is reason to believe that the total number of dosage units of all controlled substance which will be distributed by him or her pursuant to this section will exceed five percent of the total number of dosage units of all controlled substances distributed and dispensed by him or her during the 12 month period, the practitioner shall obtain a registration to distribute controlled substances.

1402. Manufacture and Distribution of Narcotic Solutions and Compounds by a Pharmacist.

As an incident to a distribution under § 1401, a pharmacist may manufacture (without being registered to manufacture) an aqueous or oleaginous solution or solid dosage form containing a narcotic controlled substance in a proportion not exceeding 20 percent of the complete solution, compound, or mixture.

1403. Distribution to Supplier.

Any person lawfully in possession of a controlled substance listed in any schedule may distribute (without being registered to distribute) that substance to the person from whom he or she obtained it or to the manufacturer of the substance, provided that a written record is maintained which indicates the date of the transaction, the name, form and quantity of the substance, the name, address, and registration number, if any, of the person making the distribution, and the name, address, and registration number, if know, of the supplier or manufacturer. In the case of returning a controlled substance listed in schedule I or II, an order form shall be used in the manner prescribed in Part 900 of these regulations and be maintained as the written record of the transaction.

1404. Distribution upon Discontinuance or Transfer of Business.

(a) Any registrant desiring to discontinue business activities altogether or with respect to controlled substances (without transferring such business activities to another person) shall return for cancellation his or

her South Carolina Controlled Substances Certificate of Registration to the Bureau of Drug Control, DHEC, 2600 Bull Street, Columbia, SC 29201. His or her Federal Controlled Substances Certificate of Registration and any un-executed order forms shall be returned to the DEA, 1835 Assembly Street, Suite 1229, Columbia, SC 29201.

(b) Any registrant desiring to discontinue business activities altogether or with respect to controlled substances (by transferring such business activities to another person) shall submit in person or by registered or certified mail, return receipt requested, to the Bureau Director at least 14 days in advance of the date of the proposed transfer (unless the Bureau Director waives this time limitation in individual instances), the following information:

(1) The name, address, registration number, and authorized business activity of the registrant discontinuing the business (registrant-transferor);

(2) The name, address, registration number, and authorized business activity of the person acquiring the business (registrant-transferee);

(3) Whether the business activities will be continued at the location registered by the person discontinuing business, or moved to another location (if the latter, the address of the new location should be listed);

(4) Whether the registrant-transferor has a quota to manufacture or procure any controlled substance listed in schedule I or II (if so, the basic class or class of the substance should be indicated); and

(5) The date on which the transfer of controlled substances will occur.

(c) Unless the registrant-transferor is informed by the Bureau Director, before the date on which the transfer was stated to occur, that the transfer may not occur, the registrant-transferor may distribute (without being registered to distribute) controlled substances in his or her possession to the registrant-transferee in accordance with the following:

(1) On the date of transfer of the controlled substances, a complete inventory of all controlled substances being transferred shall be taken in accordance with Part 700 of this Regulation. This inventory shall serve as the final inventory of the registrant-transferor and the initial inventory of the registrant-transferee, and a copy of the inventory shall be included in the records of each person. It shall not be necessary to file a copy of the inventory with the Bureau of Drug Control unless requested by the Bureau Director. Transfers of any substances listed in schedules I or II shall require the use of order forms in accordance with Part 1305 of the Federal Regulations.

(2) On the date of transfer of the controlled substances, all records required to be kept by the registrant-transferor with reference to the controlled substances being transferred, under Parts 600 through 800 of this Regulation, shall be transferred to the registrant-transferee. Responsibility for the accuracy of records prior to the date of transfer remains with the transferor, but responsibility for custody and maintenance shall be upon the transferee.

(3) In the case of registrants required to make reports pursuant to Parts 600 through 800 of this Regulation, a report marked "Final" will be prepared and submitted by the registrant-transferor showing the disposition of all the controlled substances for which a report is required; no additional report will be required from him or her, if no further transactions involving controlled substances are consummated by him or her. The initial report of the registrant-transferee shall account for transactions beginning with the day next succeeding the date of discontinuance or transfer of business by the transferor-registrant, and the substances transferred to him or her shall be reported as receipts in his or her initial report.

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PART 1500. Disposal of Controlled Substances.

1501. Procedure for Disposing of Controlled Substances.

(a) Any person in possession of any controlled substance and desiring or required to dispose of such substance may request the Bureau Director for authority and instructions to dispose of such substance.

(b) The Bureau Director shall authorize and instruct the individual in possession to dispose of the controlled substance in one of the following manners:

(1) By transfer to person registered under the Act and authorized to possess the substance;

(2) By destruction in the presence of an agent of the Bureau of Drug Control or other authorized person,
or

(3) By such other means as the Bureau Director may determine to assure that the substance does not become available to unauthorized persons.

(c) In the event that a registrant is required regularly to dispose of controlled substances, the Bureau Director may authorize the registrant to dispose of such substances, in accordance with paragraph (b) of this section, without prior approval of the Bureau of Drug Control in each instance, on the condition that the registrant keep records of such disposals and file periodic reports with the Bureau Director summarizing the disposals made by the registrant. In granting such authority, the Bureau Director may place such condition as he deems proper on the disposal of controlled substances, including the method of disposal and the frequency and detail of reports.

PART 1600. Inspections.

1601. Authority to Make Inspections.

In carrying out his or her functions under the Act, the Bureau Director, through his or her inspectors, is authorized in accordance with the Act to enter controlled premises and conduct administrative inspections thereof, for the purpose of:

(a) Inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made under the Act and any regulations promulgated under the Act, including, but not limited to, inventory and other records required to be kept pursuant to Parts 600 through 800 of this chapter, order form records required to be kept pursuant to Part 900 of this chapter, prescription and distribution records required to be kept pursuant to Part Parts 1000 through 1200 of this chapter, shipping records identifying the name of each carrier used and the date and quantity of each shipment, and storage records identifying the name of each warehouse used and the date and quantity of each storage;

(b) Inspecting within reasonable limits and in a reasonable manner all pertinent equipment, finished and unfinished controlled substances and other substances or materials, containers, and labeling found at the controlled premises relating to this Act;

(c) Making a physical inventory of all controlled substances on hand at the premises;

(d) Collecting samples of controlled substances or precursors (in the event any samples are collected during an inspection, the inspector shall issue a receipt for such samples on DEA Form 84 to the owner, operator, or agent in charge of the premises);

(e) Checking of records and information on distribution of controlled substances by the registrant as they relate to total distribution of the registrant (i.e., has the distribution in controlled substances increased markedly within the past year, and if so, why); and

(f) Except as provided in § 1602, all other things therein (including records, files, papers, processes, controls and facilities) appropriate for verification of the records, reports, documents referred to above or otherwise bearing on the provisions of the Act and the regulations thereunder.

1602. Exclusion from Inspection.

(a) Unless the owner, operator, or agent in charge of the controlled premises so consents, no inspection authorized by the regulations shall extend to:

- (1) Financial data;
- (2) Sales data other than shipping data; or
- (3) Pricing data.

1603. Entry.

An inspection shall be carried out by an inspector. Any such inspector, upon:

- (a) Stating his or her purpose and
- (b) Presenting to the owner, operator, or agent in charge of the premises to be inspected:
 - (1) Appropriate credentials, or
 - (2) Written notice of his or her inspection authority under § 1601 and the Act, or

(c) Receiving informed consent under § 1605 of this Regulation or through the use of administrative warrant issued under the Act shall have the right to enter such premises and conduct inspections at reasonable times and in a reasonable manner.

1604. Notice of Inspection.

The notice of inspection shall contain:

- (a) The name and title of the owner, operator, or agent in charge of the controlled premises;
- (b) The controlled premises name;
- (c) The address of the controlled premises to be inspected;
- (d) The date and time of the inspection;
- (e) A statement that a notice of inspection is given pursuant to the Act;
- (f) A reproduction of the pertinent parts of the Act; and
- (g) The signature of the inspector.

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1605. Consent to Inspection.

(a) An administrative inspection warrant shall not be required if informed consent is obtained from the owner, operator, or agent in charge of the controlled premises to be inspected.

(b) Wherever possible, informed consent obtained by the inspector shall consist of a written statement signed by the owner, operator or agent in charge of the premises to be inspected.

(c) After August 17, 1974, informed consent may be shown by the production of a completed registration application or certificate, which shall contain printed thereon a preamble and conditions of registration.

1606. Application for Administrative Inspection Warrant.

(a) An administrative inspection warrant application shall be submitted to any judge or any magistrate and shall contain the following information:

(1) The name and address of the controlled premises to be inspected;

(2) A statement of statutory authority for the administrative inspection warrant, and that the fact that the particular inspection in question is designed to insure compliance with the regulations promulgated under those acts;

(3) A statement relating to the nature and extent of the administrative inspection, including, where necessary, a request to seize specified items and/or to collect samples of finished or unfinished controlled substances;

(4) A statement that the establishment either:

(i) Has not been previously inspected, or

(ii) Was last inspected on a particular date.

(b) The application shall be submitted under oath to an appropriate judge or magistrate.

1607. Administrative Probable Cause.

If the judge or magistrate is satisfied that "administrative probable cause" exists, he shall issue an administrative warrant. Administrative probable cause shall not mean criminal probable cause as defined by federal or state statute or case law.

1608. Execution of Warrants.

An administrative inspection warrant shall be executed and returned as required by, and any inventory or seizure made shall comply with the requirements of the Act. The inspection shall begin as soon as is practicable after the issuance of the administrative inspection warrant and shall be completed with reasonable promptness. The inspection shall be conducted during regular business hours and shall be completed in a reasonable manner.

1609. Refusal to Allow Inspection with an Administrative Warrant.

If a registrant or any person subject to the Act refuses to permit execution of an administrative warrant or impedes the inspector in the execution of that warrant, he shall be advised that such refusal or action

constitutes a violation of the Act. If the individual persists and the circumstances warrant, he or she shall be arrested and the inspection shall commence or continue.

PART 1700. Protection of Researchers and Research Subjects.

1701. Confidentiality of Research Subjects.

(a) Any person registered to conduct a bona fide research project with controlled substances under the Act who intends to maintain the confidentiality of those persons who are the subjects of such research, shall, upon registration or within a reasonable time thereafter, submit to the Bureau of Drug Control, DHEC, 2600 Bull Street, Columbia, SC 29201, a separate request for each research project involving controlled substances, which shall contain the following:

- (1) The researcher's registration number for that project;
- (2) The location of the research project;
- (3) A general description of the research or a copy of the research protocol;
- (4) A specific request to withhold the names and/or any other identifying characteristics of the research subjects; and
- (5) The reasons supporting the request.

(b) Within 60 days from the date of receipt of the request, the Bureau Director shall issue a letter, either granting confidentiality, requesting additional information or denying confidentiality, in which case the reasons for the denial shall be included. A grant of confidentiality shall be limited solely to the specific research project indicated in the request.

(c) Within 30 days after the date of completion of the research project, the researcher shall so notify the Bureau Director.

(d) In addition to the requirements set forth in paragraphs (a), (b), and (c) of this Section, the person requesting confidentiality of research subjects shall also provide the Bureau of Drug Control with a copy of the petition to the Attorney General of the United States required pursuant to the provisions of 21 CFR § 1316.23. In the event that the federal petition for confidentiality is not granted, or is withdrawn by the Attorney General of the United States, the Bureau of Drug Control shall, after notice to the researcher, remove its grant of confidentiality, if previously granted.

1702. Exemption from Prosecution for Researcher.

(a) Upon registration of a practitioner to engage in research in controlled substances under the Act, the Bureau of Drug Control, DHEC, on its own motion or upon request in writing from the Director or from the practitioner, may exempt the registrant when acting within the scope of his or her registration, from prosecution under State or local laws for offenses relating to possession, distribution or dispensing of those controlled substances within the scope of his or her exemption. However, this exemption does not diminish any requirement of compliance with the Federal Food, Drug and Cosmetic Act (21 USC 301, et seq.) or with the Federal Controlled Substances Act (84 Stat. 1242; 21 U.S.C. 801, et seq.).

(b) All petitions for Grants of Exemption from Prosecution for the Researcher shall be addressed to the Director, Bureau of Drug Control, SCDHEC, 2600 Bull Street, Columbia, SC 29201, and shall contain the following:

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- (1) The researcher's registration number, if any, for the project;
 - (2) The location of the research of the research project;
 - (3) The qualifications of the principal investigator;
 - (4) A general description of the research or a copy of the research protocol;
 - (5) The source of funding for the research project;
 - (6) A statement as to the risks posed to the research subjects by the research procedures and what measures of protection will be afforded to the research subjects;
 - (7) A statement as to the risks posed to society in general by the research procedures and what measures will be taken to protect the interests of society;
 - (8) A specific request for exemption from prosecution by Federal, State, or local authorities for offenses related to the possession, distribution, and dispensing of controlled substances in accord with the procedures described in the research protocol;
 - (9) A statement establishing that a grant of exemption from prosecution is necessary to the successful completion of the research project;
- (c) Any researcher or practitioner proposing to engage in research requesting both exemption from prosecution and confidentiality of identity of research subjects may submit a single petition incorporating the information required in §§ 1701 and 1702.
- (d) The exemption shall consist of a letter issued by the Bureau Director, which shall include:
- (1) The researcher's name and address;
 - (2) The researcher's registration number for the research project;
 - (3) The location of the research project;
 - (4) A concise statement of the scope of the researcher's registration; and
 - (5) The limits of the exemption;
 - (6) The exemption shall apply to all acts done in the scope of the exemption while the exemption is in effect. The exemption shall remain in effect until completion of the research project or until the registration of the researcher is either revoked or suspended or his or her removal of registration is denied. However, the protection afforded by the grant of exemption from prosecution during the research period shall be perpetual.
- (e) Within 30 days of the date of completion of the research project, the researcher shall so notify the Bureau Director. The Bureau Director shall issue another letter including the information required in paragraph (d) of this section and stating the date on which the period of exemption concluded; upon receipt of this letter, the researcher shall return the original letter of exemption.

PART 1800. Administrative Conferences.**1801. Authority for Administrative Conferences.**

An administrative conference may be ordered or granted by the Director of the Bureau of Drug Control, at his or her discretion, to permit any person against whom criminal and/or civil action is contemplated under the Act an opportunity to present his or her views and his or her proposals for bringing his or her alleged violations into compliance with the law. Such administrative conference will also permit him or her to show cause why prosecution should not be instituted, or to present his or her views on the contemplated proceeding.

1802. Notice; Time and Place.

Appropriate notice designating the time and place for the administrative conference shall be given to the person. Upon request, timely and properly made, by the person to whom notice has been given, the time and place of the administrative conference, or both, may be changed if the request states reasonable grounds for such change. Such request shall be addressed to the Bureau Director who issued the notice.

1803. Conduct of Administrative Conferences.

Presentation of views at an administrative conference under this Subpart shall be private and informal. The views presented shall be confined to matters relevant to bringing violations into compliance with the Act or to other contemplated proceedings under the Act. These views may be presented orally or in writing by the person to whom the notice was given, or by his or her authorized representative.

PART 1900. Handling and Administering Controlled Substances in Hospitals.**1901. Hospital Registration.**

All hospitals (except those owned and operated by the federal government) shall be registered with DHEC in controlled substances schedules II through V inclusive.

1902. Practitioners' Registration.

Physicians and other practitioners who prescribe or order controlled substances for, or administer controlled substances to, patients in a hospital, shall be registered under the provisions of Article 3 of Chapter 53 of Title 44 of the 1976 Code.

1903. Residents' Registration.

A resident may prescribe or order the administration of controlled substances for patients within a hospital or residency training program, provided, that such resident has completed his or her course of study in a recognized college of medicine and has been duly licensed by the Board of Medical Examiners of South Carolina to practice medicine within this state, and has duly registered with DHEC and the DEA under the respective Controlled Substances Acts.

1904. Responsibility for Controlled Substances.

The administrative head of the hospital as a registrant under the Controlled Substances Act is responsible for the proper safeguarding and handling of controlled substances within the hospital. Responsibility for storage, accountability, and proper dispensing of controlled substances from the pharmacy may be delegated to a pharmacist employed by the hospital. Likewise, the Director of Nursing is usually delegated the authority for proper storage at nursing stations, and use, as directed by physician orders. However, delegation of authority does not relieve the administrator of the hospital of supervisory responsibility to insure detection and

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correction or any diversion of mishandling. The administrator shall be certain that all possible control measures are observed, and that any suspected diversion or mishandling of controlled substances is reported immediately to the Bureau of Drug Control for investigation. The administrator is ultimately responsible that all thefts be reported to DHEC pursuant to §§ 410 through 411 of this Regulation.

1905. Prescriptions not Required on Floor-Stocked Controlled Substances.

(a) Physicians and other practitioners who may be authorized according to state law, and who may be privileged and credentialed to place orders for patients within the hospital, shall enter such orders in the patient's medical record and no prescription shall be required. The nursing station floor stock used in administering controlled substances in any schedule shall be accounted for in a readily retrievable format. The practitioner's order shall be checked against the medication administration record (MAR) and the controlled substances control sheet or hospital-specific record periodically by pharmacy personnel.

(b) Due to finite limits of nursing unit controlled substances storage areas, controlled substances that are not kept as floor stock will be occasionally ordered. Proper accountability for these controlled substances not included in floor stock require that they be issued on an individual demand basis with an accompanying sign-out control sheet. Any amount of these controlled substances which are not administered to or ingested by the patient shall be returned to the pharmacy within 72 hours after the medication order is discontinued by the individual practitioner treating the patient.

(c) Controlled substances secured from or obtained by prescription from retail sources outside the hospital are to be stored securely with all other controlled substances on the nursing unit. These controlled substances are to be monitored as to their administration to the patient by a supplemental controlled substances disposition sheet. This sheet should be designated with a control number or an identifying mark in order to distinguish it from regular hospital stock. If the patient is discharged before all of these controlled substances are administered, the amount sent home with the patient (if any) shall be noted on the disposition sheet and signed and dated by a registered nurse involved in the discharge process, who shall cause the sheet to be transmitted to the hospital pharmacy. In the event there are controlled substances obtained from outside sources which are not to be sent home with the patient, or if the patient expires and there are unutilized controlled substances from these sources, the balance of the medication shall be noted on the sheet by the Registered Nurse, and the sheet and the medication shall be returned to the hospital pharmacy for disposition.

(d) All non-electronic orders shall be manually signed by the practitioner.

(e) All controlled substances within a hospital that are not located within the hospital pharmacy shall be accompanied by either an electronic documentation, a disposition sheet, or a sign-out sheet upon which to record the administration of the substance, whether the substance originated as hospital stock, from a retail source outside the hospital, or was brought into the hospital by the patient with the consent of the hospital and the patient's practitioner.

1906. Registry Number.

The physician's full name shall appear on the physician's order sheet. The physician's registry number is not required on the sheet, but shall be recorded within the pharmacy or drug room.

1907. Telephone Orders.

Telephone orders for patients are permissible only in absolute necessity. The nurse receiving the order shall enter it into the patient's medical record, authenticate the practitioner's name, and the nurse's signature. The order for the controlled substance shall be authenticated according to hospital policy.

1908. Verbal Orders.

Verbal (oral) orders for hospital patients are permitted in a bona fide emergency. Such orders shall be handled in the same manner as telephone orders.

1909. Controlled Substances Records.

All non-electronic orders and non-electronic records of controlled substances shall be in ink, typed, or indelible pencil. Mechanical or electronic systems may be used to collect and store this data. All data shall be kept in a readily retrievable manner as set forth in §§ 601, 602, 603, 801, and 804 of this regulation. Any mechanical or electronic system shall be designed to retrieve data in such a manner as to show individual controlled substance activity per nursing unit as well as individual controlled substance volume in its entirety. This shall include, but is not limited to, control numbers, date dispensed, identity of the controlled substance, strength, quantity dispensed, and location within the hospital.

1910. Procedure in Case of Waste, Destruction, Contamination, etc.

(a) Aliquot part of solutions used for drugs: The nurse shall use the proper number of tablets or ampoules from nursing unit stock. The nurse shall record the number of tablets or ampoules used and the dose given in the proper columns of the controlled substances disposition sheet, in the automated storage machine, or in a hospital-specified format. The nurse shall properly dispose of that portion of the solution not used. The aliquot shall be witnessed and recorded by the witness according to hospital policy. This information must be readily retrievable by hospital staff.

(b) Prepared dose refused by patient or canceled by physician: When a dose of a controlled substance has been prepared for a patient but not used due to refusal by the patient or cancellation by the physician, or has been accidentally contaminated during the regular course of administering the drug to the patient for whom it has been ordered (e.g., blood aspirated into a syringe when beginning the administration of an intra-muscular medication) the nurse shall properly dispose of the solution, and record on the back of the disposition sheet, in the automated storage machine, or in a hospital-specified format the reason why the controlled substance was not administered. This information must be readily retrievable by hospital staff.

(c) Accidental destruction of controlled substance: When a solution, tablet, ampoule or substance is accidentally destroyed on a nursing unit, the person responsible shall indicate the accidental loss by writing "wasted; see waste report" on the line allowed for the record on the controlled substances disposition sheet, in the automated storage machine, or in a hospital-specified format. The responsible person shall record a complete report of the accident and sign the statement.

(d) Contaminated or broken hypodermic tablets and contaminated controlled substance solutions: When a controlled substance hypodermic tablet is contaminated or broken or a controlled substance solution is contaminated, the person responsible or the head nurse shall place the tablets, particles, or solution in a suitable container and label. The person responsible, or the head nurse, shall record on the disposition sheet, in the automated storage machine, or in a hospital-specified format the wastage. He or she shall write and sign a complete report, or document the situation electronically with an electronic signature. Regardless of which system is used, a witness shall co-sign the report. The container with the contaminated controlled substance shall be returned to the pharmacy or medication room. The pharmacist or person in charge of the medication room will receive it and note on the controlled substances disposition sheet covering the particular substance that it has been returned. The hospital shall properly dispose of the material.

1911. Procedures in Case of Loss, Theft, etc.

(a) Discrepancies in controlled substances count: Those involving small amounts (such as single doses) shall be reported to a responsible supervisory official. An investigation should be made to determine the cause of

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the loss. A copy of the report of the investigation, signed by the responsible supervisor shall be filed with the hospital controlled substance records, and appropriate action taken to prevent recurrence.

(b) Recurring shortages: In cases of recurring shortages or loss of significant quantities of controlled substances (several doses), a thorough investigation shall be made, making every effort to determine the reason for the shortages, and the person responsible for the shortage, if possible. A complete report of the incident and findings shall be made to the administrative authority of the hospital. Appropriate action shall be taken immediately to prevent recurrence. A copy of the report, including any findings resulting from the local investigations, and a theft report, as required by §408, shall be forwarded to the Bureau of Drug Control, DHEC, 2600 Bull Street, Columbia, SC 29201.

1912. Controlled Substances of Physician's Office or Bag.

It is unlawful for a physician to obtain substances for his or her office or bag use from the controlled substances stock of the hospital. A physician may obtain his or her controlled substances from a drug wholesaler by invoice; Schedule II substances shall be acquired through the use of order forms supplied by the DEA, U. S. Department of Justice (DEA Forms 222). Those hospitals maintaining permitted retail pharmacies, or otherwise licensed as a "drug outlet" by the S.C. Board of Pharmacy, may at their option, furnish controlled substances to practitioners pursuant to the provisions of § 1401 of this Regulation.

1913. Dispensing to Outpatients.

It is unlawful for a hospital to dispense controlled substances to outpatients on physicians' orders. Such dispensing shall be done only on the prescription of a duly licensed physician and only from the pharmacy holding a permit as a retail pharmacy of a hospital registered under Article 3 of Chapter 53 of Title 44 of the 1976 Code, and by or under the immediate supervision of a registered pharmacist. With the permission of the hospital, a practitioner may personally dispense limited quantities of controlled substances to their patients for take-home purposes, provided that such substances are properly packaged and labeled as required by provisions elsewhere within this regulation, and in compliance with statutory provisions.

1914. Administering to Outpatients.

Controlled substances may be administered to outpatients or emergency patients when admitted to the emergency room of the hospital when ordered by the physician in charge of the case, provided a record is kept showing the name and address of the patient, kind and quantity of controlled substance administered, date and physician's order. Under no conditions may the patient be given controlled substances to take out of the hospital except as provided in § 1913.

1915. Emergency Rooms.

The stock of controlled substances maintained in hospital emergency rooms or outpatient facilities is kept for the use by or at the direction of physicians in the emergency room. Therefore, in order to receive such medication, a patient shall be examined by a physician in the emergency room or outpatient facility and the need for the particular controlled substance determined by such physician. It is not possible under federal requirements for the use of controlled substances for a physician to see a patient outside of the emergency room setting, or talk to the patient over a telephone, and then call the emergency room and order the administration of a stocked controlled substance upon the patient's arrival at the emergency facility. Cf., S.C. Code Ann. § 44-53-110, "administer" ['...in his presence...']; §§ 1103 and 1204 of this Regulation, requiring personal attendance, etc.

1916. Storage of Controlled Substances.

All controlled substances shall be kept in a locked, secure place. Large reserve stocks should be kept in a strong safe, substantial enough to deter entry and heavy enough to prevent being carried away. Other valuable property may be kept in the safe provided adequate security of the controlled substances contained therein is maintained. See also §§ 401 through 406, inclusive.

(a) Nursing station controlled drug box: Responsibility: Only a very limited number of persons should possess the key to the controlled substances on the nursing station. When such person(s) are relieved from duty, the person(s) taking charge should count and transfer the controlled substances in the presence of the person(s) being relieved, and all controlled substances should be accounted for. The responsibility rests with the person(s) assigned to possession of the key on each shift. The administrator shall be responsible for control of these keys. This responsibility may be delegated to the Director of Nursing. Written documentation of accountability of controlled substances (i.e., shift change nurses' signatures) shall be stored in a readily retrievable manner and maintained for a period of not less than two years, after which they may be destroyed.

(b) Responsibility of drug room: In those hospitals not maintaining a pharmacy under the supervision of a registered pharmacist, the drug room shall be restricted to the Director of Nurses, a designated assistant, or a designated registered nurse, not more than one of whom shall be in possession of the key to the drug room at the same time. The nurse in possession of the key to the drug room shall be responsible for all transactions in the drug room on his or her respective shift. (Observance of (a) and (b) does not relieve the Administrator of his or her responsibilities.)

1917. Availability of Records for Inspectors.

The administrative head of the hospital shall, upon service of an inspection warrant by an inspector of the Bureau of Drug Control, DHEC, or if such administrative head chooses, voluntarily without inspection warrant, (acting pursuant to the informed consent to inspection delineated as a condition of registration upon the application for registration and the registration certificate issued to the registrant by DHEC) make available to such inspector all dispensing and administering records of controlled substances, for the purpose of audit of said controlled substances, as well as records of receipt and disposition of all controlled substances acquired by the hospital. Inspectors shall not divulge information contained on patient records that do not concern controlled substances or other drugs restricted to prescription use only.

1918. Labeling of Substances. (Schedule II)

The requirements of § 1106 do not apply when a controlled substance listed in schedule II is prescribed for administration to an ultimate user who is institutionalized; Provided, that:

- (1) Not more than 7-day supply of the controlled substance listed in schedule II is dispensed at one time;
- (2) The controlled substance listed in schedule II is not in the possession of the ultimate user prior to the administration;
- (3) The institution maintains appropriate safeguards and records regarding the proper administration, control, dispensing, and storage of the controlled substances listed in schedule II; and
- (4) The system employed by the pharmacist in filling a prescription is adequate to identify the supplier, the product, and the patient, and to set forth the directions for use and cautionary statements, if any, contained in the prescription or required by law.

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1919. Labeling of Substances. (Schedules III, IV, V).

The requirements of §1201 do not apply when a controlled substance listed in schedule III or IV is prescribed for administration to an ultimate user who is institutionalized; Provided, that:

(1) Not more than a 30-day supply or 100 dosage units, whichever is less, of the controlled substance listed in schedule III, IV or V is dispensed at one time.

(2) The controlled substance listed in schedule III, IV or V is not in the possession of the ultimate user prior to administration;

(3) The institution maintains appropriate safeguards and records regarding the proper administration, control, dispensing and storage of the controlled substance listed in schedule III, IV or V; and

(4) The system employed by the pharmacist in dispensing a prescription is adequate to identify the supplier, the product, and the patient, and to set forth the directions for use and cautionary statements, if any, contained in the prescription or required by law.

1920. Clarification and Intent.

These regulations are considered to be a general but minimal required control level in the opinion of the Bureau of Drug Control, DHEC. More stringent control for the institution in question or special interpretations of these regulations may be approved by a special meeting with the Bureau of Drug Control, and the administrator or designated pharmacy and therapeutics committee of the respective hospital every 3 to 5 years when the need is felt for such clarification. The intent of Part 1900 of this regulation is to insure adequate control and accountability of controlled substances utilized in health care without duly hindering or restraining the delivery of such care. Accountability and an accurate audit at periodic intervals are the crux of the adequate control system.

1921. Consultation Procedure.

At the request of the institution under examination and/or the Bureau of Drug Control, DHEC, the S.C. Society of Hospital Pharmacists may furnish a recognized local authority on Institutional Medication Delivery and Control Systems to accompany the agent/or inspector and act as a consultant to the institution in question on rectifying flaws in the system under scrutiny.

Fiscal Impact Statement:

There will be no additional costs to the state and its political subdivisions.

Statement of Need and Reasonableness:

The Statement of Need and Reasonableness complies with S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: Amendment of R.61-4, Controlled Substances.

Purpose: The purpose of this amendment is to remove obsolete language and provide for consistency with state and federal laws. The amendments will also clarify the procedures for reporting the theft or loss of controlled substances, inventory requirements, and the method for recording refills of schedules III, IV and V controlled substances. The revisions will clarify who may dispense controlled substances, the quantity limitations for controlled substances prescriptions, the allowance to fax and partially fill schedule II controlled substances prescriptions for terminally ill patients or patients in long term care facilities, to exclude community residential care facilities and assisted living facilities. There is also a change in the expiration date for a schedule II

controlled substance prescription to conform to current statutory language. In addition, the Department will provide for registration, installation, and operation of automated storage machines at long term care facilities. These revisions will address the method of payment of registration fees and provide for certain fee exemptions. Furthermore, these amendments will provide for electronic prescriptions for controlled substances in accordance with current U.S. Drug Enforcement Administration (DEA) regulations at 21 C.F.R. § 1311, and permit the faxing for schedule III, IV and V controlled substances prescriptions. Finally, the revised regulation will contain updated references to the title of Commissioner.

Legal Authority: S.C. Code Ann. Sections 44-53-10 et seq.

Plan for Implementation: The amendments will make changes to be incorporated into R.61-4 upon approval by the Board of Health and Environmental Control and the S.C. General Assembly and publication in the State Register. The amended regulations will be provided in hard copy, at cost, and electronic formats to the community through the Department's Freedom of Information Office and at the Bureau web site.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The amendments to R.61-4 are needed to provide consistency with federal regulations at 21 C.F.R. §1300, et seq.; to clarify procedures in the current regulation regarding documentation, fees, and dispensing requirements; to provide for automated storage machines in long term care facilities; and to permit faxing and electronic prescriptions. See Purpose above. The amendments are reasonable since they accomplish their intended purpose while placing no significant burden or financial hardship upon the regulated community.

DETERMINATION OF COSTS AND BENEFITS:

There will be no additional costs to the state or its political subdivisions or to the regulated community.

UNCERTAINTIES OF ESTIMATES:

There are no known or identifiable uncertainties.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Implementation of the amendments will not compromise the protection of the environment or the public health. The effect should be beneficial because the amendments will provide easier compliance for the regulated community.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

There will be no adverse effect on the environment if the amendments are not implemented. Failure to amend the regulation would deny the regulated community the benefits of clarification and simplification of procedures for prescribing and dispensing controlled substances.

Statement of Rationale:

The amendments of R.61-4 are needed to provide clarification and consistency with current state and federal regulations pertaining to controlled substances in South Carolina. See Statement of Need and Reasonableness above.

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Document No. 4210

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-1-140 (2002), 40-33-30 (2011),
44-37-40 (2002), 44-37-50 (Supp. 2010), and 44-89-10 et seq. (2002)

61-24. Licensed Midwives

Synopsis:

This amendment (1) incorporates the utilization of certification credentials from a nationally recognized credentialing organization approved by the Department to satisfy certain requirements for licensing; (2) allows for reciprocity of currently credentialed midwives; (3) updates the hearings and appeals language for consistency with changes in state law for contested cases; and (4) deletes the provisions for monetary penalties. Other minor nonsubstantive stylistic revisions were made to improve the overall quality of the regulation pursuant to Legislative Council drafting standards for regulations.

A Notice of Drafting for this amendment was published in the *State Register* on July 22, 2011.

See Discussion of Revisions below and Statement of Need and Reasonableness and Rationale herein for more detailed information.

Changes Made as Requested by the House Medical, Military, Public and
Municipal Affairs Committee by letter dated March 19, 2013:

Section: Statutory Authority-Corrected Typo legal authority 44-33-30 to 40-33-30.

Table of Contents: B.10 Penalties Deleted.

Table of Contents: Renumbered.

Table of Contents: Sections F and H Deleted Penalty Class.

Sections: B.1, C.6, D, F, G.1, H, I.1, I.2, I.3, I.4, I.5, I.6, J, K, L, M, N, and O.1.c, Deleted Penalty Class.

Section: A.1.g: Revised definition regarding the Certified Professional Midwife.

Sections: B.10, B.10.a, B.10.b, B.10.c, B.10.d, B.10.e, B.10.f, and B.10.g, Deleted sections regarding penalties.

Section: B.11 Renumbered.

Section: B.12 Renumbered.

Section: C.5.b. Revised paragraph regarding the evidence of completion of certification.

Section: C.5.c. Revised paragraph regarding the number of contact hours of continuing education.

Section: C.5 Renumbered.

Section: C.7 Revised paragraph regarding reference section.

Section: N.1 Revised paragraph regarding reference section.

Section: O.1.c Revised paragraph regarding reference section.

Discussion of Revisions Submitted to the General Assembly January 8, 2013:

Nonsubstantive codification outlining, grammatical and punctuation corrections were made throughout the regulation, as well as the addition of a table of contents, statutory authority and purpose and scope to improve the overall quality of the regulation for consistency with other regulations to meet Legislative Council drafting standards for regulations.

A. Title was revised and Section A was divided into two parts.

A.2. Definitions. Two new definitions were added at A.1.g and A.1.o: "Certified Professional Midwife (CPM)" and "North American Registry of Midwives (NARM)." The definition of "Apprentice Midwife" at A.2.a was

amended to add "certified professional midwife." A.2.b added "certified professional midwife" to the definition of "Apprentice Midwife License."

B.4. Fees. The \$200 examination fee was deleted as it no longer applies and clarified that licensing fees shall be used exclusively in support of activities pursuant to this regulation.

B.11.k. Revocation of License. Subitem k was added to the list of causes for which a license may be revoked.

B.12. The appeal procedure for contested cases was amended to reflect changes in state law.

C. Requirements for Licensure introductory and Exception paragraphs were amended to allow for reciprocity and to allow currently licensed midwives to maintain their license without becoming certified by NARM or other Department approved organizations.

C.1. An outline caption was added for consistency and the section was amended to add that a certified professional midwife may supervise clinical experience for apprentice midwives and that renewals may be granted on a case-by-case basis.

C.2. An outline caption was added for consistency.

C.2.b. Added evidence of completion of certification by NARM requirement.

C.2.c. Educational program to be evaluated by NARM and self study was deleted.

C.2.d. Revised that evidence of completed apprenticeship is no longer submitted to the Department.

C.2.e. Clarified requirements for cardiopulmonary resuscitation and neonatal resuscitation.

C.3. Added a caption title to complete codification outline for consistency.

C.5. Clarified that licenses must be renewed every 24 months and an applicant must submit a renewal at at least 60 days prior to the expiration date of his/her license.

C.5.f. An exception was added to provide documentation by midwives who are not certified professional midwives to provide the Department with evidence of required training and annual peer review.

D. References were updated.

E. Educational requirements were revised in the introductory paragraph. Subsections E.1 through existing Section F were deleted because they no longer apply.

F. Prenatal Care (II). Renumbered. Outline captions for F.1, F.2 and F.3 were added for consistency, and grammar and punctuation is corrected at F.4.1 to add the word "and."

G.1. An outline caption was added for consistency.

H.1.b. Grammar and punctuation was corrected and the word "and" was added.

K.53. Grammar and punctuation was corrected and the word "and" was added.

L.20. Wrote out in word form the degree symbol to avoid future software changes that would not convert symbols well.

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M.1. Added caption for outline consistency. At M.1.g, grammar and punctuation was corrected by adding the word "and."

M.2. Added caption for outline consistency and corrected punctuation and grammar at M.2.a by adding the word "and."

O.1.a(10). Corrected grammar and punctuation by adding the word "and."

O.1.b(7). Corrected grammar and punctuation and added the word "and."

Instructions:

Replace 61-24, Licensed Midwives, in its entirety with this amendment.

Text:

61-24. Licensed Midwives.

Statutory Authority: Sections 44-1-140, 40-33-30, 44-37-40, 44-37-50, and 44-89-10 et seq., S.C. Code of Laws, 1976, as amended.

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A. Purpose and Scope; Definitions.

1. Purpose and Scope. The purpose of this regulation is to provide requirements for licensure, education, minimum standards of care and practice to individuals who desire to practice midwifery in the State of South Carolina.

2. Definitions. For the purposes of these regulations the following definitions apply:

a. Apprentice Midwife. A person authorized by the Department to engage in a course of study, to include clinical experience under the supervision of a physician, certified nurse-midwife, certified professional midwife, or midwife licensed in the State of South Carolina, who will prepare that person to become a licensed midwife.

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b. **Apprentice Midwife License.** A license issued by the Department to authorize a person desiring to become a midwife to obtain clinical experience under supervision of a physician, certified nurse-midwife, certified professional midwife, or midwife licensed in the State of South Carolina. This license is not transferable.

c. **Certified Nurse-Midwife.** A registered nurse licensed to practice in this state that has been certified by the American College of Nurse-Midwives and officially recognized by the State Board of Nursing for South Carolina.

d. **Community Health Center.** A not-for-profit organization which receives federal funding to operate a local health center.

e. **Contact Hour.** A unit of measurement to describe 50-60 minutes of an approved, organized learning experience or two hours of planned and supervised clinical practice which is designed to meet professional educational objectives.

f. **Continuing Education.** Participation in an organized learning experience under responsible sponsorship or supervised clinical practice, capable direction and qualified instruction and approved by the Department for the purpose of meeting requirements for renewal of licensure under these regulations.

g. **Certified Professional Midwife (CPM).** A professional midwifery practitioner who has met the standards for certification set by the North American Registry of Midwives (NARM).

h. **Department.** The S.C. Department of Health and Environmental Control.

i. **Health Care Provider.** A physician or nurse practitioner.

j. **License.** A document issued by the Department which authorizes an individual to practice midwifery within the scope of these regulations. The license is not transferable.

k. **Licensee.** A licensed midwife or a licensed apprentice midwife.

l. **Midwife.** A person licensed by the State of South Carolina who provides midwifery services as defined below.

m. **Midwifery Instructor.** A physician, certified nurse-midwife or licensed midwife, licensed in the State of South Carolina, who has a supervisory relationship with an apprentice midwife.

n. **Midwifery Services.** Those services provided by a person who is not a medical or nursing professional licensed by an agency of the State of South Carolina, for the purpose of giving primary assistance in the birth process either free, for trade, or for money, provided, however, that this shall not preclude any medical or nursing professional from being licensed in accordance with this regulation. This definition shall not be interpreted to include emergency services provided by lay persons or emergency care providers under emergency conditions.

o. **North American Registry of Midwives (NARM).** National organization which provides and maintains an evaluative process for multiple routes of midwifery education and training, and develops and administers a standardized examination system for CPM credentialing.

p. **Nurse Practitioner.** A registered nurse licensed to practice in this state and registered with the S.C. State Board of Nursing. A certified nurse-midwife is accepted by the Board of Nursing as meeting these requirements.

q. Physician. A person who is licensed to practice medicine in the State of South Carolina.

r. Supervision. Coordination of learning experiences, direction, and continued evaluation of the practice of an apprentice midwife.

B. Interpretations.

1. License. It shall be unlawful to conduct midwifery services within South Carolina without possessing a valid license issued by the Department.

2. Issuance of License.

a. A license is issued pursuant to the provisions of Section 44-7-260(A) of the South Carolina Code of Laws of 1976, as amended, and the standards promulgated thereunder. The issuance of a license does not guarantee adequacy of individual care, treatment, personal safety, or the well-being of any patient.

b. A license is not assignable or transferable and is subject to revocation by the Department for failure to comply with the laws and regulations of the State of South Carolina.

c. The license must be posted in a conspicuous place visible to patients.

3. Effective Date and Term of License. A license for a midwife shall be effective for a 24-month period following the date of issue. An apprentice midwife license shall be effective for a one year period following the date of issue.

4. Fees. The license fee for each midwife license is one hundred fifty dollars (\$150) per 24-month licensing period. The annual license fee for an apprentice midwife shall be fifty dollars (\$50). The license fees shall be payable to the Department and shall be used exclusively in support of activities pursuant to this regulation. Fees are not refundable.

5. Initial License. A person who has not been continuously licensed under these or prior standards shall not provide care to patients until issued an initial license.

6. Inspections. The Department is authorized to inspect records of mothers and newborns delivered by midwives at any time.

7. Noncompliance. When noncompliance with the licensing standards exists, the licensee shall be notified by the Department of the violations and required to provide information as to how and when such an item will be corrected.

8. Exceptions to Licensing Standards. The Department may make exceptions to these standards where it is determined that the health and welfare of the community require the services of the licensee and that the exception, as granted, will have no significant impact on the safety, security or welfare of the licensee's patients.

9. Change of License. A licensee shall request to the Department by letter issuance of an amended license prior to a change in the licensee's name or address.

10. Revocation of License. The Department may refuse to issue, suspend for a definite period, or revoke a license for any of the following causes:

a. Dereliction of any duty imposed by law;

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- b. Incompetence as determined by the Department;
- c. Conviction of a felony;
- d. Practicing under a false name or alias;
- e. Violation of any of the provisions of this regulation;
- f. Obtaining any fee by fraud or misrepresentation;
- g. Knowingly employing, supervising, or permitting (directly or indirectly) any person or persons not licensed as apprentice or midwife to perform any work covered by these regulations;
- h. Using, causing, or promoting the use of any advertising matter, promotional literature, testimonial, or any other representation however disseminated or published, which is misleading or untruthful;
- i. Representing that the service or advice of a person licensed to practice medicine or nursing will be used or made available when that is not true, or using the words, "doctor" or "nurse," or similar words, abbreviations or symbols implying involvement by the medical or nursing professions when such is not the case;
- j. Permitting another to use the license; and
- k. Revocation of certification by NARM or other Department approved organization(s).

11. Hearings and Appeals.

- a. A Department decision involving the issuance, denial, or revocation of a license may be appealed by an affected person with standing pursuant to applicable law, including S.C. Code Title 44, Chapter 1; and Title 1, Chapter 23.
- b. Any person to whom an order is issued may appeal it pursuant to applicable law, including S.C. Code Title 44, Chapter 1; and Title 1, Chapter 23.

C. Requirements for Licensure. No person may provide midwifery services or represent that s/he is a midwife without first possessing a license issued by the Department in accordance with the provisions of these regulations. Licensure as a midwife shall be by certification by NARM or other Department approved organization(s). Midwives requesting initial licensure will receive a license, provided they have evidence of certification by NARM or other Department approved organization(s) and have also met other requirements as established by the Department.

EXCEPTION: Individuals licensed by the Department prior to the publication date of this regulation will not be required to obtain certification by NARM or other Department approved organization(s). However, if a midwife is delinquent in submitting her/his license renewal application and the delinquency period exceeds 30 days the midwife must obtain certification by NARM or other similar Department approved organization(s) and also meet the requirements outlined in this section.

1. Midwife Apprentice License. Upon application, an apprentice license may be issued. An apprentice license authorizes the person to obtain the required clinical experience under supervision of a physician, certified nurse-midwife, certified professional midwife, or licensed midwife. Applications for renewal of apprentice licenses must be submitted at least 90 days prior to the expiration of the initial license. A licensed

apprentice midwife may apply for renewal of an apprentice license three times before obtaining certification by NARM or other Department approved organization(s). Under extenuating circumstances, one additional renewal may be granted at the discretion of the Department on a case-by-case basis. The applicant for an apprentice midwife license must:

- a. Provide written verification of apprentice/supervisor relationship from the person(s) supervising the applicant and their verified relationship(s) when the apprentice license is renewed;
- b. Be enrolled in an approved course of education, or have submitted evidence of a planned course of education, subject to the approval of the Department;
- c. Show evidence that s/he has had negative testing for tuberculosis or is noninfectious for the same;
- d. Be able to read and write English.

2. Initial Midwife License. A licensed midwife may provide care only as allowed by these regulations. In order to apply to become a licensed midwife, a person must submit:

- a. Application for a midwife license;
- b. Evidence of completion of certification by NARM or other Department approved organization(s);
- c. Evidence of completion of an educational program to be evaluated by NARM or other Department approved organization;
- d. Evidence of completed apprenticeship and a recommendation by the supervising person (clinical experience shall be supervised by a licensed midwife, a certified nurse-midwife, a certified professional midwife, or a physician active in perinatal care) to be submitted to the certifying agency;
- e. Evidence of valid Healthcare Provider cardiopulmonary resuscitation (CPR) certificate by the American Red Cross or American Heart Association and Neonatal Resuscitation Program (NRP) certificate in accordance with current NARM or other Department approved organization standards;
- f. Evidence that the person has had negative testing for tuberculosis or is noninfectious for the same.

3. Examination.

- a. Upon approval of the above documentation by the Department the applicant may sit for the examination, and upon successfully passing the examination, may be licensed as a midwife.
- b. Applicants for licensure as a midwife who lack apprenticeship in South Carolina but who have equivalent experience from another jurisdiction may apply for a midwife license and sit for the qualifying examination after submitting evidence of experience and of all other requirements to the Department. Action will be taken on each request on an individual basis.

4. Limitations. A licensed midwife may sponsor a maximum of three apprentice midwives simultaneously.

5. Renewal of Midwife License. Licenses must be renewed every 24 months. An applicant for renewal of a midwife license must submit at least 60 days prior to the expiration of his/her license:

- a. A midwife license renewal application;
- b. Evidence of completion of certification by NARM or other Department approved organization(s);

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- c. Evidence of completion of 30 contact hours of continuing education during the licensing period;
- d. Evidence of certification from the American Red Cross or American Heart Association in cardiopulmonary resuscitation of adult and newborn within the previous year;
- e. Evidence of participation in an annual peer review;
- f. Evidence of an annual negative skin test for tuberculosis or is noninfectious for the same.
- g. EXCEPTION: Individuals licensed by the Department prior to the publication date of this regulation and not certified by NARM or other Department approved organization(s) must submit the following to the Department:

(1) Evidence of completion of 30 contact hours of continuing education during the licensing period;

(2) Evidence of valid Healthcare Provider cardiopulmonary resuscitation (CPR) certificate by the American Red Cross or American Heart Association and Neonatal Resuscitation Program (NRP) certificate in accordance with current NARM or other Department approved organization standards;

(3) Evidence of participation in an annual peer review.

6. Tuberculin Skin Test Requirements. Within three months prior to initial application and annually thereafter, midwives and apprentices shall have a tuberculin skin test, unless a previously positive reaction can be documented. The intradermal (Mantoux) method, using five tuberculin units of stabilized purified protein derivative (PPD) is to be used. Persons with tuberculin test reactions of 10mm or more of induration should be referred to a physician for appropriate evaluation. The two-step procedure (one Mantoux test followed one week later by another) is required for initial testing in order to establish a reliable baseline.

a. Persons with reactions of 10mm and over to the initial application tuberculin test, those who have previously-documented positive reactions, those with new positive reactions to the skin tests, and those with symptoms suggestive of TB (e.g., cough, weight loss, night sweats, fever, etc.), shall be given a chest X-ray to determine whether TB is present. If TB is diagnosed, the person shall be referred to a physician for appropriate treatment and contacts examined.

b. There is no need to conduct an initial or routine chest X-ray on persons with negative tuberculin tests who are asymptomatic.

c. Persons with negative tuberculin skin tests shall have an annual tuberculin skin test.

d. No person who has a positive reaction to the skin test shall have patient contact until certified non-contagious by a physician.

e. New applicants who have a history of TB shall be required to have certification by a physician that they are non-contagious prior to patient contact.

f. Applicants who are known or suspected to have TB shall be required to be evaluated by a physician and will not be allowed to have patient contact until they have been certified non-contagious by the physician.

g. Preventive treatment of personnel with new positive reactions is essential, and shall be considered for all infected applicants who have patient contact, unless specifically contraindicated. Persons who complete treatment may be exempt from further routine chest X-rays unless they have symptoms of TB. Routine annual chest X-rays of persons with positive reactions do little to prevent TB and therefore are not a substitute for preventive treatment.

h. Post exposure skin tests should be provided for tuberculin negative persons within 12 weeks after termination of contact for any suspected exposure to a documented case of TB.

7. Delinquency Period. Delinquency in renewal of licensure of 30 days after the license expiration date shall result in a delinquency fee of \$25 in addition to the licensure fees noted in Section B.4. If after that period of time application has not been received, the applicant will be required to retake the midwife examination, to include payment of the examination fee.

D. Scope of Practice. The licensed midwife may provide care to low-risk women and neonates determined by medical evaluation to be prospectively normal for pregnancy and childbirth (see Sections J., K. and L.), and may deliver only women who have completed between 37 to 42 weeks of gestation, except under emergency circumstances. Care includes:

1. Prenatal supervision and counseling;
2. Preparation for childbirth;

3. Supervision and care during labor and delivery and care of the mother and newborn in the immediate postpartum, so long as progress meets criteria generally accepted as normal.

E. Educational Requirements. The Department shall set minimum educational standards and requirements. The Department may suggest or require specific topics for continuing education based on any problem areas indicated by midwives' quarterly reports, consumer feedback, or on advances in available knowledge. The Department shall keep all applicants for licensure or renewal fully informed of requirements for attaining, demonstrating and upgrading knowledge and skills.

F. Prenatal Care.

1. Required Visits. The midwife shall, upon acceptance of a woman for care, require her to have two visits with a physician, community health center or health department. One of these visits must be in the final six weeks of pregnancy. The midwife shall make entries in the patient's record of the physician, health center, or health department visits.

2. Scheduled Visits. During pregnancy, the patient shall be seen by the midwife or other appropriate health care provider according to the following schedule: at least once every four weeks until 32 weeks gestation, once every two weeks from 32 until 36 weeks, and weekly after 36 weeks.

3. Home Visit. At least one prenatal visit shall be made to each woman's home during the last six weeks of pregnancy.

4. Nature of Care. Each prenatal visit shall include the following care:

- a. Assessment of general health and obstetric status;
- b. Nutritional counseling;
- c. Blood pressure;
- d. Gross urinalysis: dip stick for sugar and protein;
- e. Weight;
- f. Gestational age assessment;

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- g. Fundal height;
- h. Palpation of abdomen, Leopold's maneuvers;
- i. Auscultation of FHT after 20 weeks;
- j. Assessment of psychological status;
- k. Education as to cause, treatment, and prognosis of any symptoms, problems, or concerns;
- l. Information regarding childbirth classes and other community resources; and
- m. Hematocrit and/or hemoglobin shall be assessed at approximately three and eight months gestation.

5. **Informed Consent.** The midwife shall assure that all women under his/her care understand that s/he is a midwife licensed by this Department to perform midwifery services by virtue of approved education, clinical experience, and examination, but is not a nurse or physician, and are advised of the risks, responsibilities and alternatives for care. In consultation with the expectant parents, s/he shall, prior to the expected date of confinement, plan a strategy for backup medical care for mother and infant, and for transportation to medical facilities in case of emergency, and shall coordinate such arrangements with the backup health care providers. The midwife shall obtain a signed informed consent form to keep in his/her permanent records.

6. **Parent Education.** The midwife shall assure that natural childbirth and breastfeeding education in some form is available to all of his/her patients, and that they are aware of their rights and responsibilities as consumers of maternity care.

G. Intrapartum Care.

1. **Intrapartum Midwife Duties.** During labor, the midwife's duties are to support the natural process and the mother's own efforts, in an attitude of appropriate observation and patience, as well as alertness to the parameters of normality. These duties include, but are not limited to:

- a. Ascertaining that labor is in progress;
- b. Assessing and monitoring maternal and fetal well-being;
- c. Monitoring the progress of labor;
- d. Assisting with labor coaching;
- e. Monitoring the emotional atmosphere;
- f. Delivering the baby and placenta; and
- g. Managing any problems in accordance with the guidelines cited elsewhere in these regulations and in accord with sound obstetric and neonatal practice.

2. **Examination in Labor.** The midwife will not perform any vaginal examinations on a woman with ruptured membranes and no labor, other than an initial sterile examination to be certain there is no prolapsed cord. Once active labor is assuredly in progress, exams may be made as necessary.

3. Sanitation. The midwife will conduct all applicable clinical procedures and maintain all equipment used in practice in an aseptic manner.

4. Operative Procedures. The midwife will not perform routinely any operative procedure other than artificial rupture of membranes at the introitus and/or clamping and cutting the umbilical cord.

5. Medications. Drugs or medications shall be administered only after consultation with and prescription by, a physician. The midwife shall not administer any drugs or medications except:

- a. For control of postpartum hemorrhage;
- b. When administering medication in accordance with regulations governing the prevention of infant blindness;
- c. When administering RhoGam in accordance with accepted standards of professional practice.

H. Postpartum Care.

1. Immediate Care. The midwife must remain with the mother and infant for a minimum of two hours after the birth or until s/he is certain that both are in stabilized condition, whichever is longer. S/he shall leave clear instructions for self-care until his/her next visit. Immediate postpartum duties include:

- a. Monitoring the physical status of mother and infant, and offering any necessary routine comfort measures;
- b. Facilitation of maternal-infant bonding and family adjustment; and
- c. Inspection of the placenta and membranes.

2. Subsequent Checkups. Within 24 to 36 hours after delivery, the midwife shall visit the mother and neonate; however, if the midwife is present for the first 20 to 24 hours after delivery, the visit at 24 to 36 hours is not considered mandatory.

3. RhoGam Requirements. Women needing RhoGam should be evaluated and treated by the midwife or a health care provider within 72 hours of delivery.

I. Care of the Newborn.

1. Immediate Care. Immediate care includes assuring that the airways are clear, Apgar scoring, maintenance of warmth, clamping and cutting of umbilical cord, eye care, establishment of feeding and physical assessment.

2. Eye Care. The midwife shall instill into each of the eyes of the newborn, within one hour of birth, a prophylactic agent such as silver nitrate or a suitable substitute.

3. Metabolic Screening. All requirements for metabolic screening shall be made clear to parents. The midwife shall notify the county health department in the county where the infant resides within three days of delivery in order for a specimen to be obtained.

4. Subsequent Care. In the days and weeks following birth, care includes monitoring jaundice, counseling for feeding, continued facilitation of the attachment and parenting process, cord care, etc.

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5. Infant Care. In consultation with parents, the midwife shall encourage that the infant be seen by a health care provider within two weeks of birth.

6. Provision of Information. The midwife shall assure that the parents are fully informed as to available community resources for emergency medical care for infants, well-baby care, or other needed services.

J. Referral to Physician.

1. Recognition of Problems. The midwife must be able at all times to recognize the warning signs of abnormal or potentially abnormal conditions necessitating referral to a physician. It shall be the midwife's duty to consult with a physician whenever there are significant deviations from the normal. The midwife's training and practice must reflect a particular emphasis on thorough risk assessment.

2. Continuity of Care. When referring a patient to a physician, the midwife shall remain in consultation with the physician until the resolution of the situation. It is appropriate for the midwife to maintain care of her patient to the greatest degree possible, in accordance with the patient's wishes, remaining present through delivery if possible.

K. Maternal Conditions Requiring Physician Referral or Consultation. At any time in the maternity cycle, the midwife shall obtain medical consultation, or refer for medical care, any woman who:

1. Has a history of serious problems not discovered at the initial visit with a health care provider;
2. Develops a blood pressure of 141/89 or more, or a persistent increase of 30 systolic or 15 diastolic over her usual blood pressure;
3. Develops marked edema of face and hands;
4. Develops severe persistent headaches, epigastric pain, or visual disturbances;
5. Develops proteinuria or glycosuria;
6. Has convulsions of any kind;
7. Does not gain at least 14 pounds by 30 weeks gestation or at least four pounds per month in the last trimester, or gains more than six pounds in any two-week period;
8. Has vaginal bleeding before the onset of labor;
9. Has symptoms of kidney or urinary tract infection;
10. Has symptoms of vaginitis;
11. Has symptoms of gonorrhea, syphilis or genital herpes;
12. Smokes more than 10 cigarettes per day and does not decrease usage;
13. Appears to abuse alcohol or drugs;
14. Does not improve nutrition within satisfactory limits;
15. Is anemic (Hematocrit under 32; Hemoglobin under 11.5);

16. Develops symptoms of diabetes;
17. Has excessive vomiting;
18. Has "morning sickness" (nausea) continuing past 24 weeks gestation;
19. Develops symptoms of pulmonary disease;
20. Has polyhydramnios or oligohydramnios;
21. Is Rh negative for periodic blood testing;
22. Has severe varicosities of the vulva or extremities;
23. Has inappropriate gestational size;
24. Has suspected multiple gestation;
25. Has suspected malpresentation;
26. Has marked decrease in or cessation of fetal movements;
27. Has rupture of membranes or other signs of labor before completion of 37 weeks gestation;
28. Is past 42 weeks gestation by estimated date of confinement and/or examination;
29. Has a fever of 100.4 for 24 hours;
30. Demonstrates serious psychiatric illness or severe psychological problems;
31. Demonstrates unresolved fearfulness regarding home birth or midwife care, or otherwise desires consultation or transfer;
32. Develops respiratory distress in labor;
33. Has ruptured membranes without onset of labor within 12 hours;
34. Has meconium-stained amniotic fluid;
35. Has more than capillary bleeding in labor prior to delivery;
36. Has persistent or recurrent fetal heart tones significantly above or below the baseline, or late or irregular decelerations which do not disappear permanently with change in maternal position, or abnormally slow return to baseline after contractions;
37. Has excessive fetal movements during labor;
38. Develops ketonuria or other signs of exhaustion;
39. Develops pathological retraction ring;
40. Does not progress in dilation, effacement or station in any two-hour period in active labor;

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41. Does not show continued progress to delivery after two hours in second stage (primigravida); one hour for multigravida;

42. Has a partially separated placenta or atonic uterus;

43. Has bleeding of over three cups before or after delivery of placenta;

44. Has firm uterus with no bleeding but retained placenta more than one hour;

45. Has significant change in blood pressure, pulse over 100, or is pale, cyanotic, weak or dizzy;

46. Retains placental or membrane fragments;

47. Has laceration requiring repair;

48. Has a greater than normal lochial flow;

49. Does not void urine within six hours of birth;

50. Develops a fever greater than 100.4 on any two of the first ten days postpartum excluding the first day;

51. Develops a foul-smelling or otherwise abnormal lochial flow;

52. Develops a breast infection;

53. Has signs of serious postpartum depression; and

54. Develops any other condition about which the midwife feels concern, at the midwife's discretion.

L. Neonatal Conditions Requiring Physician Referral. The midwife shall obtain medical consultation from a physician for, or shall refer for medical care, any infant who:

1. Has an Apgar score of less than seven at five minutes;

2. Has any obvious anomaly or suspected disorder, abnormal facies, etc.;

3. Develops grunting respirations, chest retractions, or cyanosis;

4. Has cardiac irregularities;

5. Has a pale, cyanotic or gray color;

6. Develops jaundice in the first 36 hours;

7. Develops an unusual degree of jaundice at any time;

8. Has an abnormal cry;

9. Has skin lesions suggesting pathology;

10. Has eye discharge suggesting pathology;

11. Has excessive moulding of head, large cephalhematoma, excessive bruising, apparent fractures, dislocations, or other injuries;
12. Weighs less than five and one-half pounds;
13. Weighs more than nine pounds, if maternal diabetes or infant birth trauma is suspected;
14. Shows signs of hypoglycemia, hypocalcemia, or other metabolic disorders;
15. Shows signs of postmaturity;
16. Has meconium staining;
17. Has edema;
18. Does not urinate or pass meconium in first 12 hours after birth;
19. Is lethargic, weak or flaccid or does not feed well;
20. Has rectal temperature below 97 degrees F. or above 100.6 degrees F.;
21. Has full, bulging or abnormally sunken fontanel; and
22. Appears abnormal in any other respect.

M. Emergency Measures. The midwife must be able to carry out emergency measures in the absence of medical help. S/he must be trained to deal effectively with those life-threatening complications most likely to arise in the course of childbirth.

1. Examples of Emergency Situations. These are:

- a. Respiratory or circulatory failure in mother or infant;
- b. Postpartum hemorrhage;
- c. Cord prolapse;
- d. Tight nuchal cord;
- e. Multiple births and malpresentations;
- f. Shoulder dystocia;
- g. Gross prematurity or intra-uterine growth retardation; and
- h. Serious congenital anomalies.

2. Examples of Emergency Measures. These are:

- a. Episiotomy; and
- b. Intramuscular administration of Pitocin for the control of postpartum hemorrhage.

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N. Prohibitions in the Practice of Midwifery.

1. Medications. The midwife shall not administer any drugs or injections of any kind, except as indicated in Sections G.5 and M.2.b.

2. Surgical Procedures. The midwife shall not perform any operative procedures or surgical repairs other than artificial rupture of membranes at the introitus, and clamping and cutting of the umbilical cord or as noted above in an emergency.

3. Artificial Means. The midwife shall not use any artificial, forcible or mechanical means to assist the delivery.

4. Induced Abortion. The midwife shall not perform nor participate in induced abortions.

O. Record Keeping and Report Requirements.

1. Record Keeping. The midwife shall maintain records of each mother and neonate which shall contain information as described below. All notes shall be legibly written or typed, dated and signed.

a. The mother's record shall include as a minimum:

(1) Face Sheet: Name, address (including county), telephone number, age, race, date of birth, occupation, marital status, religion, social security number, name of baby's father, midwife in attendance, apprentice midwife (if present), address and telephone number of person(s) to be contacted in the event of emergency, and name and address of physician to be contacted in the event of emergency;

(2) History of hereditary conditions in mother's and/or father's family;

(3) First day of the last menstrual period and estimated day of confinement;

(4) Blood group and Rh type;

(5) Serological test for syphilis (including dates performed);

(6) Number, duration and outcome of previous pregnancies, with dates;

(7) Drugs taken during pregnancy, labor and delivery;

(8) Duration of ruptured membranes and labor, including length of second stage;

(9) Complications of labor, e.g., hemorrhage or evidence of fetal distress;

(10) Description of placenta at delivery, including number of umbilical vessels; and

(11) Estimated amount and description of amniotic fluid.

b. The neonate's record shall include at a minimum:

(1) Name, sex, race, date of birth, place of birth, parents' names, address and telephone number, midwife in attendance, and apprentice midwife (if present).

(2) Results of measurements of fetal maturity and well-being;

- (3) Apgar scores at one and five minutes of age;
- (4) Description of resuscitations, if required;
- (5) Detailed description of abnormalities and problems occurring from birth until transfer to a referral facility;
- (6) Care of the umbilical cord;
- (7) Eye care; and
- (8) Counseling to the mother regarding feeding, community resources for emergency medical care, well-baby care, or other needed services, and metabolic screening.

c. Records shall be maintained for no less than 25 years. All records are subject to review by the Department.

2. Registration of Birth. The midwife shall assure that the registration of the baby's birth with the County Health Department is made within five days of birth.

3. Reporting Requirements.

a. Quarterly Reports. Each midwife shall file quarterly reports with the Department on forms provided by the Department. This report includes an Individual Data Sheet which shall be completed for each mother delivered by the midwife. This form includes such information as delivery date, parity, antepartum, labor, newborn, and postpartum statistics, as well as conditions which required consultation by a health care provider. A Summary Sheet is also submitted as a part of the quarterly report. This sheet contains a summary of the mothers cared for during the quarter, e.g., number of undelivered women registered for care with the midwife at the beginning and end of the quarter, women transferred out during antepartum, and women delivered during the quarter.

b. Special Reports. When any of the emergency measures listed in Section M. are utilized, a special report must be filed with the quarterly report to the Department, describing in detail the emergency situation, the measure(s) taken, and the outcome.

c. Consumer Reports. The midwife shall ask all mothers to complete a Consumer Feedback Form after the delivery experience and mail to the Department. These forms, which are provided to the midwives by the Department, request the mother to furnish information regarding certain statistics about the baby, e.g., name, sex, weight, date and place of delivery, and other information such as types of care the midwife provided and whether or not the mother was satisfied with that care.

d. Reporting Mortalities. The midwife shall report any maternal or infant death on a Report of Fetal Death Form (DHEC 665) to the Department, Attn: Vital Records and Public Health Statistics, within 48 hours. This report requires information concerning the death, to include sex, weight, date and place of delivery, pregnancy history, obstetric procedures, complications of labor and/or delivery, method of delivery, congenital anomalies of the fetus, and cause of death.

P. Department Responsibilities.

1. Midwifery Advisory Council.

a. The Commissioner of DHEC shall appoint a Midwifery Advisory Council which shall meet at least annually for the purpose of reviewing and advising the Department regarding matters pertaining to the

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training, practices, and regulation of midwives in South Carolina. The Council shall consist of three licensed midwives, one consumer of midwife care, two certified nurse-midwives, one physician active in perinatal care, and one member-at-large. Each member shall be appointed for a three-year term of office.

b. The Council shall establish a committee for peer review to consult with midwives in questions of ethics, competency and performance, and to serve as an appeal committee when disciplinary action has been taken. The committee may recommend denying, suspending, or revoking a license, or may recommend specific educational objectives, apprenticeship or other improvement measures as necessary.

2. Monitoring Outcomes.

a. As part of the monitoring process, the Department shall evaluate consumer feedback forms issued through midwives to all consumers of midwifery care. The Department shall also issue to, collect, and evaluate quarterly forms from midwives regarding their practices.

b. The Department shall ensure that high quality services are provided by midwives and apprentice midwives in this State through compliance with the standards in these regulations.

Q. General. Conditions arising which have not been addressed in these regulations shall be managed in accordance with the best practices as determined by the Department.

Fiscal Impact Statement:

Costs to the Department:

Items (1) and (2), Processing applications for the midwife licensing program requires a disproportionate amount of resources compared to the size of the regulated community. For each midwife candidate that seeks licensing in South Carolina, considerable effort is made to evaluate the educational program, completion of apprenticeship, verification of professional recommendations, and verification of cardiopulmonary resuscitation certification. Records are maintained for each examination cycle. Expenditures for validation of prerequisites, administration of the oral examination, and administrative requirements far exceed the \$50.00 oral examination fee the Department receives for each oral examination administered.

Items (3) and (4). This item will have no impact on the state or its political subdivisions.

Statement of Need and Reasonableness:

This statement of need and reasonableness was determined by staff analysis pursuant to the S.C. Code Ann. Subsections 1-23-115(C)(1)-(3) and (9)-(11) (2005).

DESCRIPTION OF REGULATION: Regulation 61-24, Licensed Midwives.

Purpose: This amendment (1) incorporates the utilization of certification credentials from a nationally recognized credentialing organization approved by the Department to satisfy certain requirements for licensing; (2) allows for reciprocity of currently credentialed midwives; (3) updates the hearings and appeals language for consistency with changes in state law for contested cases; and (4) deletes the provisions for monetary penalties. Other minor nonsubstantive stylistic revisions were made to improve the overall quality of the regulation pursuant to Legislative Council drafting standards for regulations.

Legal Authority: S.C. Code Ann. Section 40-33-30 (2011), 44-1-140 (2002), 44-37-40 (2002), 44-37-50 (Supp. 2010), and 44-89-10 et seq. (2002).

Plan for Implementation: The proposed revision will take effect upon publication in the *State Register* following approval by the Board and the S.C. General Assembly. The proposed revision will be implemented by providing the regulated community with copies of the regulation, and enforced through inspections by the Department.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REVISION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The regulation was last amended in July 1993 and included a comprehensive revision. Since that date, numerous changes in the practice of midwifery to improve standards of care have been adopted by the regulated community. The regulation must be updated to ensure new midwives have met current standards of education and skills testing and to allow midwives that have been credentialed by national credentialing organizations to practice in South Carolina.

Standards have been established for the practice of midwifery and have been accepted nationwide. The North American Registry of Midwives (NARM) has established minimum standards for evaluating candidates, such as educational requirements, skills testing and written examination. Candidates who have met the credentialing standards earn the designation of Certified Professional Midwife (CPM).

The process used to create and administer the Certified Professional Midwife examination has been evaluated and accredited by the National Commission for Certifying Agencies, the same organization that credentials Certified Nurse Midwives and many other advanced practice nursing credentials.

The process used by NARM to evaluate the midwife candidates' education and skills verification is more comprehensive than the oral examination currently in use by the Department.

Adoption of nationally recognized standards will provide reciprocity for CPMs seeking licensure in South Carolina.

Currently licensed midwives will not be required to become credentialed as certified professional midwives, unless the midwife does not renew his/her license within 30 days of license expiration. Currently, 22 of 35 currently licensed midwives are credentialed as certified professional midwives.

In essence, the Department seeks to include certification by NARM or other organizations approved by the Department as a requirement for licensure and to allow for reciprocity for individuals certified by those organizations. This will provide more comprehensively trained new midwives that have met rigorous educational and skills verification requirements for national certification.

The Department seeks to incorporate changes to the regulation's section on hearings and appeals pursuant to changes in state law on contested cases.

DETERMINATION OF COSTS AND BENEFITS:

(1) Costs to the Department:

There is no expected cost to the Department. See Fiscal Impact Statement above.

(2) Costs to the Regulated Community:

Most midwife candidates will incur a onetime cost of \$700.00 paid to the credentialing organization for an educational and skills evaluation prior to taking the written examination for certification. Midwife candidates that attend a midwifery school accredited by the Midwifery Education Accreditation Council are exempt from the education and skills evaluation. Thereafter, certification is maintained through satisfaction of credentialing

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requirements including continuing education, peer review, cardiopulmonary resuscitation, as well as a renewal fee of \$150.00, paid every 36 months to the credentialing organization.

There will be no cost to currently licensed midwives. Currently licensed midwives may seek credentialing, but it will not be required to renew licenses in good standing.

There will be no additional costs to reciprocity midwife candidates.

The Department does not anticipate additional costs resulting from the amendments to bring the appeals procedure current due to changes in state law for contested cases.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment. The regulation revision will promote public health by upgrading standards for regulating midwives and midwife apprentices. In addition, the revision would ensure the validity of knowledge and skills of the licensed midwife.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE NEW REGULATION IS NOT IMPLEMENTED:

There will be an adverse effect on the public health of South Carolina mothers if the proposed regulatory revisions are not implemented since it will permit midwives to be licensed without requiring verification of the most current standards of practice. The new midwives would also not have had comprehensive skills verification.

Licensing of Certified Professional Midwives moving to South Carolina would be unnecessarily delayed.

Statement of Rationale:

Department staff determined during its review of R.61-24 that it was appropriate to revise the regulation. R.61-24 has not been amended since it was last revised in 1993. Since that time, the midwife community has developed a nationally recognized, competency based credentialing process. Standards for education, preceptorship and skills verification have been established and validated. Currently 63 percent of licensed midwives in South Carolina are credentialed as Certified Professional Midwives through NARM. The Department adopted NARM written examination as the written examination required for midwife licensing in 2000. The process used by NARM to evaluate the midwife candidates' education and skills verification is more comprehensive than the oral examination currently in use by the Department.

The Department has determined that these amendments provide for immediate improvements to the regulated community and the consumers of midwifery care in South Carolina.

Document No. 4320
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL
CHAPTER 8

Statutory Authority: 1976 Code Sections 6-9-40 and 6-9-63(E)

Article 8. International Building Code
Article 9. International Fire Code
Article 10. International Fuel Gas Code
Article 11. National Electrical Code

Synopsis:

The South Carolina Building Codes Council will amend its regulations by adding Article 8, based upon the International Building Code, 2012 Edition; by adding Article 9, based upon the International Fire Code, 2012 Edition; by adding Article 10, based upon the International Fuel Gas Code, 2012 Edition; and by adding Article 11, based upon the National Electrical Code, 2011 Edition, in accordance with the statutory amendments to acts governing the Building Codes Council, including proposed modifications.

The Notice of Drafting was published in the *State Register* on September 28, 2012.

Copies of the referenced codes can be found at <http://publiccodes.citation.com/icod/IC-P-2012-000019.htm>

Instructions:

The following sections of Chapter 8 are added as provided below. All other items and sections remain unchanged.

Text:

ARTICLE 8
INTERNATIONAL BUILDING CODE
2012 International Building Code Modification Summary
(Statutory Authority: 1976 Code Section 6-9-40)

8-800. International Building Code.

NOTE-This article is based upon the International Building Code, 2012 Edition, in accordance with the statutory amendments to acts governing the Building Codes Council, except for the modifications referenced below.

This code is identical to the 2012 Edition of the International Building Code except for the following modifications:

8-801. IBC Section 403.2.1 Reduction in fire-resistance rating.

8-802. IBC Section 706.3 Materials.

8-803. IBC Table 706.4 Fire Wall Fire-Resistance Ratings.

a. For group H-1, H-2 or H-3 buildings, also see Sections 415.6 and 415.7.

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8-804. IBC Section 1014.2. Egress through intervening spaces.

Means of egress shall consist of continuous and unobstructed paths of travel to the exterior of a building. Means of egress shall not be permitted through kitchens, closets, restrooms and similar areas nor through adjacent tenant spaces.

Exception: Means of egress shall be permitted through a kitchen area serving adjoining rooms constituting part of the same dwelling unit or guest room.

When unusually hazardous conditions exist, the building official may require additional means of egress to assure the safety of the occupants.

8-805. IBC Section Appendix H Signs.

Adopt Appendix H.

ARTICLE 9 INTERNATIONAL FIRE CODE 2012 International Fire Code Modification Summary (Statutory Authority: 1976 Code Section 6-9-40)

8-900. International Fire Code.

NOTE-This article is based upon the International Fire Code, 2012 Edition, in accordance with the statutory amendments to acts governing the Building Codes Council, except for the modifications referenced below.

This code is identical to the 2012 Edition of the International Fire Code except for the following modifications:

8-901. IFC Section 202 General definitions.

An outdoor fire burning materials other than rubbish where the fire being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height for pleasure, religious, ceremonial to include sky lanterns, cooking, warmth or similar purpose.

8-902. IFC Section 202 General definitions.

Sky lanterns are miniature, unmanned hot air balloons categorized as a recreational fire. This open flame source in the lantern creates heat inside which causes the lantern to lift into the atmosphere, uncontrollably. These devices are often used in celebrations and other recreational events and are also known as “Kongming lanterns.”

8-903. IFC Section 307.5. Attendance.

Sky lanterns are prohibited, unless tethered or anchored.

8-904. IFC Section 503.2.1 Dimensions.

Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm) except for approved security gates in accordance with Section 503.6 and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm).

8-905. IFC Section 507.1 Required water supply.

Water supply. Approved fire hydrants shall be provided for buildings to meet the necessary fire flow requirements as determined by the fire official. Where public water supply is inadequate or not available, an approved alternative water source meeting the fire flow requirements shall be provided. Fire flow performance tests shall be witnessed by the fire official, or representative, prior to final approval.

Location. The location and number of hydrants shall be designated by the fire official, but in no case, shall distance between installed fire hydrants exceed 1000 ft (305 m). Fire hydrants shall be located within 500 ft (152 m) of all firefighter access points when measured along the normal routes of fire department vehicle access which conforms to the requirements of Section 503. No point on the exterior of a building shall be located more than 500 ft (152 m) from a fire hydrant accessible to fire department vehicles as provided in Section 503.

Exception. One and two family dwellings, including attached or detached accessory structures.

8-906. IFC Section 905.3 Required installations.

1. Standpipe systems are not required in Group R-3 occupancies.
2. Where a standpipe system is provided per section 905, the hose and nozzle may be removed if approved by the AHJ.

8-907. IFC Section 906.1(1) Where required.

8-908. IFC Section 2307.2.2 Listed equipment.

Hoses, hose connections, vehicle fuel connections, dispensers, LP-gas pumps and electrical equipment used for LP-gas shall comply with the requirements of NFPA 58.

8-909. IFC Section 2307.4 Location of dispensing operations and equipment.

In addition to the requirements of Section 2306.7, the point of transfer for LP-gas dispensing operations shall be 25 feet (7620 mm) or more for buildings having combustible exterior wall surfaces, buildings having combustible exterior wall surfaces that are not part of a 1-hour fire-resistance-rated assembly, or buildings having combustible overhangs, *lot lines* of property which could be built on, and railroads; and least 10 feet (3048 mm) from public streets, or sidewalks and buildings having noncombustible exterior wall surfaces that are part of a fire-resistance-rated assembly having a rating of 1 hour or more; and 5 feet from driveways.

Exception: 1. the point of transfer for LP-gas dispensing operations need not be separated from canopies that are constructed in accordance with the *International Building Code* and which provide weather protection for the dispensing equipment. 2. The separation from driveways is not required where the driveway serves the vehicle fuel dispenser.

LP-gas containers shall be located in accordance with Chapter 61. LP-gas storage and dispensing equipment shall be located outdoors and in accordance with Section 2306.7.

8-910. IFC Section 2307.5.3 Vehicle impact protection.

Exception: An alternative method may be used that meets the intent of this section with the approval of the AHJ.

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8-911. IFC Section 2307.6 Private fueling of motor vehicles.

Self-service LP-gas dispensing systems, including key, code and card lock dispensing systems, shall not be open to the public. In addition to the requirements of Sections 2305 and 2306.7, self-service LP-gas dispensing systems shall be in accordance with the following:

1. The system shall be provided with an emergency shutoff switch located within 100 feet (30 480 mm) of, but not less than 20 feet (6096 mm) from dispensers.
2. The *owner* of the LP-gas motor fuel-dispensing facility shall provide for the safe operation of the system and the training of users.

8-912. IFC Section 6101.1 Scope.

Storage, handling and transportation of liquefied petroleum gas (LP-gas) and the installation of LP-gas equipment pertinent to systems for such uses shall comply with this chapter and NFPA 58. Properties of LP-gas shall be determined in accordance with Annex B of NFPA 58.

8-913. IFC Section 6103.2.1.1 Use in basement, pit or similar location.

LP-gas containers complying 6103.2.2 shall be permitted to be used in basements and above grade underfloor spaces provided such location has adequate ventilation for equipment utilization. Equipment with attached cylinders shall not be left unattended or stored in such location after use. LP-gas container storage shall comply with Section 6109.7. Self contained torch assemblies may be used in accordance with 6103.2.1.6.

8-914. IFC Section 6103.2.1.6 Use with self-contained assemblies.

Portable LP-gas containers are allowed to be used to supply approved self contained torch assemblies or similar appliances. Such containers shall not exceed a water capacity of 2.7 pounds (1.2 kg).

8-915. IFC Section 6105.2 Release to the atmosphere.

LP-gas shall not be released to the atmosphere, except as provided in NFPA 58 7.3.1.

8-916. IFC Section 6106.1 Attendants.

Dispensing of LP-gas shall be performed by a qualified attendant that meets the requirements of this section and NFPA 58 Section 4.4.

8-917. IFC Section 6106.2 Overfilling.

LP-gas containers shall not be filled or maintained with LP-gas in excess of either the volume determined using the fixed maximum liquid-level gauge installed in accordance with NFPA 58 5.7.5 and in accordance with the manufacturer's specifications or equivalent, or the weight determined by the required percentage of the water capacity marked on the container. Portable LP-gas containers shall not be refilled unless equipped with an overfilling prevention device (OPD) where required by Section 5.7.3 of NFPA 58.

8-918. IFC Section 6107.4 Protecting containers from vehicles.

Exception: An alternative method may be used that meets the intent of this section with the approval of the AHJ.

8-919. IFC Section 6109.3 Position.

LP-gas containers in storage having individual water capacity greater than 2.7 pounds (1.2 kg) [nominal 1-pound (0.454 kg) LP-gas capacity] shall be positioned with the pressure relief valve in direct communication with the vapor space of the container.

8-920. IFC Section 6109.7 Storage in basement, pit or similar location.

Department of Transportation (DOT) specification cylinders with a maximum water capacity of 2.7 pounds (1.2 kg) for use in completely self contained hand torches and similar applications. The quantity of LP-gas shall not exceed 20 pounds (9 kg).

8-921. IFC Section 6109.9 Storage within buildings accessible to the public.

Department of Transportation (DOT) specification cylinders with a maximum water capacity of 2.7 pounds (1.2 kg) used in completely self contained hand torches and similar applications are allowed to be stored or displayed in a building accessible to the public. The quantity of LP-gas shall not exceed 200 pounds (91 kg) except as provided in Section 6109.11.

8-922. IFC Section 6109.13 Protection of containers.

LP-gas containers shall be stored within a suitable enclosure or otherwise protected against tampering. Vehicle protections shall be required as required by the *fire code official* in accordance with IFC 312 or NFPA 58 8.4.2.2.

8-923. IFC Section 6110.1 Temporarily out of service.

Containers not connected for service at customer locations. LP-gas containers at customer locations that are not connected for service shall comply with all of the following:

1. Have LP-gas container outlets, except relief valves, closed and plugged or capped.
2. Be positioned with the relief valve in direct communication with the LP-gas container vapor space.

8-924. IFC Section 6111.2.1 Near residential, educational and institutional occupancies and other high-risk areas.

Separation distance requirements may be reduced to not less than 50 feet as approved by the *fire code official*, based upon a completed fire safety analysis and consideration of special features such as topographical conditions, capacity of the LP-gas vehicle and the capabilities of the local fire department. The Office of the State Fire Marshall will provide an approved fire safety analysis to be utilized for this specific requirement.

8-925. IFC Section 6111.3 Garaging.

Garaging of LP-gas tank vehicles shall be as specified in NFPA 58. Vehicles with LP-gas fuel systems are allowed to be stored or serviced in garages as specified in Section 11.16 of NFPA 58.

ARTICLE 10
INTERNATIONAL FUEL GAS CODE
2012 International Fuel Gas Code Modification Summary
(Statutory Authority: 1976 Code Section 6-9-40)

8-1000. International Fuel Gas Code.

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NOTE-This article is based upon the International Fuel Gas Code, 2012 Edition, in accordance with the statutory amendments to acts governing the Building Codes Council, except for the modifications referenced below.

This code is identical to the 2012 Edition of the International Fuel Gas Code except for the following modifications:

8-1001. IFGC Section 401.9 Identification.

8-1002. IFGC Section 401.10 Third-party testing and certification.

All piping, tubing and fittings shall comply with the applicable referenced standards, specifications and performance criteria of this code, including Section 403 of the IFGC and corresponding sections.

8-1003. IFGC Section 412.4 Listed equipment.

Hoses, hose connections, vehicle fuel connections, dispensers, LP-gas pumps and electrical *equipment* used for LP-gas shall comply with the requirements of NFPA 58.

8-1004. IFGC Section 412.6 Location.

In addition to the fuel dispensing requirements of the *International Fire Code*, the point of transfer for dispensing operations shall be 25 feet (7620 mm) or more from buildings having combustible exterior wall surfaces, buildings having noncombustible exterior wall surfaces that are not part of a 1-hour fire-resistance-rated assembly or buildings having combustible overhangs, property which could be built on, and railroads; and at least 10 feet (3038 mm) from public streets or sidewalks and buildings having noncombustible exterior wall surfaces that are part of a fire-resistance-rated assembly having a rating of 1 hour or more; and 5 feet from driveways.

Exception: 1. The point of transfer for dispensing operations need not be separated from canopies providing weather protection for the dispensing equipment constructed in accordance with the *International Building Code*. Liquefied petroleum gas containers shall be located in accordance with the *International Fire Code*. 2. The separation from driveways is not required where the driveway serves the vehicle fuel dispenser.

Liquefied petroleum gas storage and dispensing equipment shall be located outdoors and in accordance with the *International Fire Code*.

8-1005. IFGC Section 412.7.3 Vehicle impact protection.

Exception: An alternative method may be used that meets the intent of this section with the approval of the AHJ.

8-1006. IFGC Section 412.8 Private fueling of motor vehicles.

Self-service LP-gas dispensing systems, including key, code and card lock dispensing systems, shall not be open to the public. In addition to the requirements of the International Fire Code, self-service LP-gas dispensing systems shall be provided with an emergency shutoff switch located within 100 feet (30 480 mm) of, but not less than 20 feet (6096 mm) from, dispensers and the owner of the dispensing facility shall ensure the safe operation of the system and the training of users.

8-1007. IFGC Section 505.1.1 Commercial cooking appliances vented by exhaust hoods.

Exception: An interlock between the cooking appliance and the exhaust hood system shall not be required for appliances that are of the manually operated type and are factory equipped with standing pilot burner ignition systems.

ARTICLE 11
NATIONAL ELECTRICAL CODE
2011 National Electrical Code Modification Summary
(Statutory Authority: 1976 Code Section 6-9-40)

8-1100. National Electrical Code.

NOTE-This article is based upon the National Electrical Code, 2011 Edition, in accordance with the statutory amendments to acts governing the Building Codes Council, except for the modifications referenced below.

This code is identical to the 2011 Edition of the National Electrical Code except for the following modifications:

8-1101. NEC Article 210.12(B) Arc-Fault Circuit-Interrupter Protection.

(c) A circuit serving no outlets within the bedroom except the smoke detector shall not be protected by an arc-fault protector.

Fiscal Impact Statement:

There will be no cost incurred by the State or any of its political subdivisions.

Statement of Rationale:

The science and technology supporting the development of these regulations can be found in the corresponding construction codes located at the website referenced in the synopsis.

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Document No. 4321
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL
CHAPTER 8

Statutory Authority: 1976 Code Sections 6-9-40 and 6-9-63(E)

Article 12. International Residential Code

Synopsis:

The South Carolina Building Codes Council will amend its regulations by adding Article 12, based upon the International Residential Code, 2012 Edition, in accordance with the statutory amendments to acts governing the Building Codes Council, including proposed modifications.

The Notice of Drafting was published in the *State Register* on September 28, 2012.

A copy of the referenced code can be found at <http://publiccodes.citation.com/icod/IC-P-2012-000019.htm>

Instructions:

The following section of Chapter 8 is added as provided below. All other items and sections remain unchanged.

Text:

ARTICLE 12
INTERNATIONAL RESIDENTIAL CODE
2012 International Residential Code Modification Summary
(Statutory Authority: 1976 Code Section 6-9-40)

8-1200. International Residential Code.

NOTE-This article is based upon the International Residential Code, 2012 Edition, in accordance with the statutory amendments to acts governing the Building Codes Council, except for the modifications referenced below.

This code is identical to the 2012 Edition of the International Residential Code except for the following modifications:

8-1201. IRC Section R202 Definitions.

Accepted Engineering Practice – The performance design of structures and/or structural elements that vary from prescriptive design methods of this code. Such design shall be made with accepted design standards by a South Carolina licensed Architect or Engineer as permitted by existing state law.

8-1202. IRC Figure R302.1 Exterior walls.

Exception 6. a. The minimum fire separation distance for improvement constructed on a lot shown on: [i] a recorded bonded or final subdivision plat, or [ii] a sketch plan, site plan, plan of phased development or preliminary plat approved by the local governing authority which was recorded or approved prior to the implementation of IRC 2012 which shows or describes lesser setbacks than the fire separation distances provided in Table R302.1(1) shall be equal to the lesser setbacks, but in no event less than 3 feet.

b. The minimum fire separation distance for improvements constructed on a lot where the local governing authority has prior to the implementation of IRC 2012: [i] accepted exactions or issued conditions, [ii] granted a special exception, [iii] entered into a development agreement, [iv] approved a variance, [v] approved a planned development district, or [vi] otherwise approved a specific development plan which contemplated or provided for setbacks less than the fire separation distances provided in Table R302.1(1) shall be equal to the lesser setback, but in no event less than 3 feet.

8-1203. IRC Section R302.2 Townhouses.

Exception: A common 2-hour fire resistance rated wall assembly tested in accordance with ASTM E119 or UL263 is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. This rating may be reduced to 1-hour when the townhouses on both sides of such wall are equipped throughout with an automatic sprinkler system installed in accordance with Section P2904. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against the exterior wall and tight against the underside of the roof sheathing. Electrical installations shall be installed in accordance with Chapters 34 through 43. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

8-1204. IRC Section R302.5.1 Opening protection.

Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 1 3/8 inches (35 mm) in thickness, solid or honeycomb core steel doors not less than 1 3/8 inches (35 mm) thick, or 20-minute fire-rated doors.

8-1205. IRC Section R303.4 Mechanical ventilation.

The Building Codes Council does not adopt IRC Section R303.4.

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8-1206. IRC Figure R307.2 Minimum Fixture Clearances.

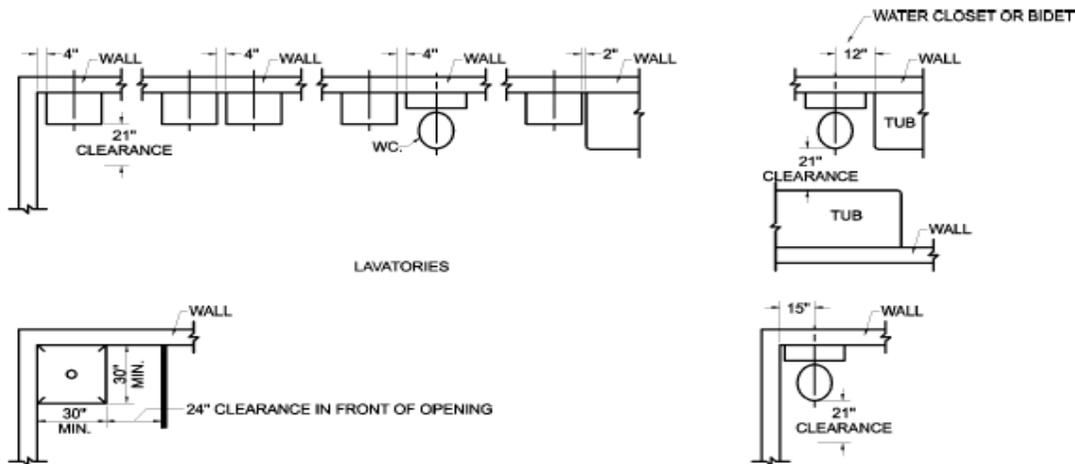


FIGURE 307.2
MINIMUM FIXTURE CLEARANCES

8-1207. IRC Section R311.7.5.1 Risers.

The maximum riser height shall be $7\frac{3}{4}$ inches (196 mm). The maximum riser height for masonry stairs shall be 8 inches (203 mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than $\frac{3}{8}$ inch (9.5 mm). Risers shall be vertical or sloped from the underside of the nosing of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted provided that the opening between treads does not permit the passage of a 4-inch-diameter (102 mm) sphere.

Exception: The opening between adjacent treads is not limited on stairs with a total rise of 30 inches (762 mm) or less.

8-1208. IRC Section R312.1.1 Where required.

Guards shall be located along open sided walking surfaces of all decks, porches, balconies, stairs, ramps and landings that are located more than 30 inches measured vertically to the floor or grade below and at any point where a downward slope exceeds 3V:12H within 36 inches (914 mm) horizontally to the edge of the open side. Insect screening shall not be considered as a guard.

8-1209. IRC Section R312.2 Window fall protection.

Where window fall protection is provided it shall be installed in accordance with Section R312.2.1.

Window opening control devices. Window opening control devices shall comply with ASTM F 2090. The window opening control device, after operation to release the control device allowing the window to fully open, shall not reduce the minimum net clear opening area of the window unit to less than the area required by Section R310.1.1.

8-1210. IRC Section R313.1 Townhouse Automatic Fire Sprinkler Systems.

An automatic residential fire sprinkler system shall be installed in townhouses.

Exceptions: 1. Townhouses constructed with a common 2-hour fire-resistance-rated wall assembly or separated from each other by wall or floor assemblies having not less than a 1-hour fire resistance rating tested in accordance with ASTM E119 or UL 263 provided such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. The wall(s) shall be rated for fire exposure from both sides and shall extend to and be tight against exterior walls and the underside of the roof sheathing. Electrical installations in the separation walls shall be installed in accordance with Chapters 34 through 43. Penetrations for electrical outlet boxes shall be in accordance with Section R302.4.

2. An automatic residential fire sprinkler system shall not be required when additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed.

8-1211. IRC Section R313.2. One and two-family dwellings automatic fire sprinkler systems.

The Building Codes Council does not adopt IRC Section R313.2.

8-1212. IRC Section R317.1.1 Field treatment.

Field-cut ends, notches and drilled holes of preservative-treated wood shall be treated in the field in accordance with AWPA M4 or in accordance with the preservative-treated wood product manufacturer's recommendations.

8-1213. IRC Section R404.1.9.2 Masonry piers supporting floor girders.

Masonry piers supporting wood girders sized in accordance with Tables R502.5(1) and R502.5(2) shall be permitted in accordance with this section. Piers supporting girders for interior bearing walls shall have a minimum nominal dimension of 8 inches (203 mm) for heights not exceeding 4 feet (1220 mm) and a minimum nominal dimension of 12 inches (305 mm) for heights not exceeding 10 feet (3048 mm) from top of footing to bottom of sill plate or girder. Piers supporting girders for exterior bearing walls shall have a minimum nominal dimension of 12 inches (305 mm) and a maximum height of 4 feet (1220 mm) from top of footing to bottom of sill plate or girder. Girders and sill plates shall be anchored to the pier or footing in accordance with Section R403.1.6 or Figure R404.1.5(1). Floor girder bearing shall be in accordance with Section R502.6.

8-1214. IRC Section R502.11.4 Truss design drawings.

Truss design drawings, prepared in compliance with Section R502.11.1, shall be provided to the building official at the time of inspection. Truss design drawings shall be provided with the shipment of trusses delivered to the job site. Truss design drawings shall include at a minimum the information specified below:

8-1215. IRC Section R703.8 Flashing.

R703.8 Flashing. Flashing shall be provided in accordance with this section and shall be installed at all of the following locations:

1. Exterior window and door openings.
2. At the intersection of chimneys or other masonry construction with frame or stucco walls, with projecting lips on both sides under stucco copings.
3. Under and at the ends of masonry, wood or metal copings and sills.
4. Continuously above all projecting wood trim.

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5. Where exterior porches, decks or stairs attach to a wall or floor assembly of wood frame construction.
6. At wall and roof intersections.
7. At built-in gutters.

R703.8.1 Flashing Materials. Approved flashing materials shall be corrosion-resistant. Self adhered membranes used as flashing shall comply with AAMA 711. Pan flashing shall comply with Section R703.8.2. Installation of flashing materials shall be in accordance with Section R703.8.3.

R703.8.2 Pan Flashing. Pan flashing installed at the sill of exterior window and door openings shall comply with this section. Pan flashing shall be corrosion-resistant and shall be permitted to be pre-manufactured, fabricated, formed or applied at the job site. Self-adhered membranes complying with AAMA 711 shall be permitted to be used as pan flashing. Pan flashing shall be sealed or sloped in such a manner as to direct water to the surface of the exterior wall finish or to the water-resistive barrier for subsequent drainage.

R703.8.3 Flashing Installation. Flashing installation shall be in accordance with this section and the flashing manufacturer's installation instructions. Flashing shall be applied shingle fashion in a manner to prevent entry of water into the wall cavity or penetration of the water to the building structural framing components. Flashing shall extend to the surface of the exterior wall finish.

R703.8.3.1 Flashing Installation at Exterior Windows and Doors. Flashing at exterior windows and doors shall be applied shingle fashion and shall extend to the surface of the exterior wall finish or to the water resistive-barrier for drainage. Installation of flashing materials shall be in accordance with one or more of the following methods:

1. The fenestration manufacturer's installation and flashing instructions.
2. The flashing manufacturer's installation instructions.
3. Flashing details or other methods approved by the building official.
4. As detailed by a registered design professional.

8-1216. IRC Chapter 11 Energy Efficiency.

The Building Codes Council does not adopt IRC Chapter 11.

8-1217. IRC Section M1411.5 Insulation of refrigerant piping.

Piping and fittings for refrigerant vapor (suction) lines shall be insulated with insulation have a thermal resistivity of at least R 2.5 hr. ft² F/Btu and having external surface permeance not exceeding 0.05 perm [2.87 ng/(s m² Pa)] when tested in accordance with ASTM E 96.

8-1218. IRC Section M1411.6 Locking access port caps.

The Building Codes Council does not adopt IRC Section M1411.6.

8-1219. IRC Section M1502.3 Duct termination.

Exhaust ducts shall terminate on the outside of the building. Exhaust duct terminations shall be in accordance with the dryer manufacturer's installation instructions. Exhaust duct terminations shall be equipped with a backdraft damper. Screens shall not be installed at the duct termination.

8-1220. IRC Section M1502.4.4 Duct length.

The maximum length of a clothes dryer exhaust duct shall not exceed 35 feet (10668 mm) from the dryer location to the wall or roof termination.

8-1221. IRC Section G2418.2 Design and Installation.

Piping shall be supported with pipe hooks, pipe straps, bands, brackets, hangers, or building structural components suitable for the size of *piping*, of adequate strength and quality, and located at intervals so as to prevent or damp out excessive vibration.

8-1222. IRC Section P2503.6 Shower Liner Test.

Where shower floors and receptors are made water tight by the application of materials required by section P2709.2, the completed liner installation shall be tested. Shower liner shall be tested to the lesser of the depth of threshold or 2" and shall be operated at normal pressure for a test period of not less than 15 minutes, and there shall be no evidence of leakage.

8-1223. IRC Section P2904.1 General.

The design and installation of residential fire sprinkler systems shall be in accordance with NFPA 13D or Section P2904 which shall be considered equivalent to NFPA 13D. Partial residential sprinkler systems shall be permitted to be installed only in buildings not required to be equipped with a residential sprinkler system. Section P2904 shall apply to stand-alone and multipurpose wet-pipe sprinkler systems that do not include the use of antifreeze. A multipurpose fire sprinkler system shall provide domestic water to both fire sprinklers and plumbing fixtures. A stand-alone sprinkler system shall be separate and independent from the water distribution system. A backflow preventer shall not be required to separate a stand-alone sprinkler system from the water distribution system. Any individual offering to contract for the design, installation, testing, and/or maintenance of a residential multipurpose fire sprinkler systems, as referred in section P2904, must be certified and licensed through the South Carolina Contractors Licensing Board.

8-1224. IRC Section E3901.12 HVAC outlet.

A 125-volt, single-phase, 15 or 20 ampere-rated receptacle outlet shall be installed at an accessible location for the servicing of heating, air-conditioning and refrigeration equipment located in attics and crawl spaces. The receptacle shall be located on the same level and within 25 feet (7620 mm) of the heating, air-conditioning and refrigeration equipment. The receptacle outlet shall not be connected to the load side of the HVAC equipment disconnecting means.

8-1225. IRC Section Appendix H Patio Covers.

The Building Codes Council does adopt IRC Section Appendix H, but does not provide the Appendix below.

Fiscal Impact Statement:

There will be no cost incurred by the State or any of its political subdivisions.

Statement of Rationale:

The science and technology supporting the development of these regulations can be found in the corresponding code located at the website referenced in the synopsis.

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Document No. 4327
DEPARTMENT OF LABOR, LICENSING AND REGULATION
PANEL FOR DIETETICS
CHAPTER 40

Statutory Authority: 1976 Code Section 40-20-50

- 40-11. Code of Ethics
- 40-15. Interpretation of Standards
- 40-17. Reporting of Disciplinary Actions

Synopsis:

In conformance with current legislation, Regulations 40-11 and 40-15 must be amended and Regulation 40-17 must be added regarding the reporting of disciplinary actions.

The Notice of Drafting was published in the *State Register* on November 23, 2012.

Instructions:

The following sections of Chapter 40 are modified as provided below. All other items and sections remain unchanged.

Text:

40-11. Code of Ethics.

Licensed professionals in the field of dietetics, must maintain high standards of integrity and professional conduct, accept responsibility for their actions, continually seek to enhance their professional capabilities, practice with fairness and honesty, and encourage others to act in a professional manner consistent with the licensure standards and responsibilities set forth in these Rules, The Academy of Nutrition and Dietetics/Commission on Dietetic Registration, and as may be adopted from time to time:

- (1) The licensed dietitian conducts himself/herself with honesty, integrity, and fairness.
- (2) The licensed dietitian practices dietetics based on scientific principles and current information.
- (3) The licensed dietitian presents substantiated information and interprets controversial information without personal bias, recognizing that legitimate differences of opinion exist.
- (4) The licensed dietitian assumes responsibility and accountability for personal competence in practice, continually striving to increase professional knowledge and skills and to apply them in practice.
- (5) The licensed dietitian recognizes and exercises professional judgment within the limits of his/her qualifications and collaborates with others, seeks counsel, or makes referrals as appropriate.
- (6) The licensed dietitian provides sufficient information to enable clients and others to make their own informed decisions.
- (7) The licensed dietitian protects confidential information and makes full disclosure about any limitations on his/her ability to guarantee full confidentiality.
- (8) The licensed dietitian provides professional services with objectivity and with respect for the unique needs and values of individuals.
- (9) The licensed dietitian provides professional services in a manner that is sensitive to cultural differences and does not discriminate against others on the basis of race, ethnicity, creed, religion, disability, sex, age, sexual orientation, or national origin.
- (10) The licensed dietitian does not engage in sexual harassment in connection with professional practice.
- (11) The licensed dietitian provides objective evaluations of performance for employees and coworkers, candidates for employment, students, professional association memberships, awards, or scholarships.
- (12) The licensed dietitian makes all reasonable effort to avoid bias in any kind of professional evaluation of others.

(13) The licensed dietitian is alert to situations that might cause a conflict of interest or have the appearance of a conflict.

(14) The licensed dietitian provides full disclosure when a real or potential conflict of interest arises.

(15) The licensed dietitian who wishes to inform the public and colleagues of his/her services does so by using factual information. The licensed dietitian does not advertise in a false or misleading manner.

(16) The licensed dietitian promotes or endorses products in a manner that is neither false nor misleading. The licensed dietitian permits the use of his/her name for the purpose of certifying that dietetics services have been rendered only if he/she has provided or supervised the provision of those services.

(17) The licensed dietitian withdraws from professional practice under the following circumstances:

(a) The licensed dietitian has engaged in any substance abuse that could affect his/her practice;

(b) The licensed dietitian has been adjudged by a court to be mentally incompetent;

(c) The licensed dietitian has an emotional or mental disability that affects his/her practice in a manner that could harm the client or others.

(18) The licensed dietitian complies with all applicable laws and regulations concerning the profession and is subject to disciplinary action under the following circumstances:

(a) The licensed dietitian has been convicted of a crime under the laws of the United States which is a felony or a misdemeanor, an essential element of which is dishonesty, and which is related to the practice of the profession.

(b) The licensed dietitian has been disciplined by a state, and at least one of the grounds for the discipline is the same or substantially equivalent to these principles.

(c) The licensed dietitian has committed an act of misfeasance or malfeasance which is directly related to the practice of the profession as determined by a court of competent jurisdiction, a licensing board, or an agency of a governmental body.

(19) The licensed dietitian shall report to the appropriate authorities any incident of which he/she has personal knowledge, of unethical dietetic practice by any individual or organization.

40-15. Interpretation of Standards.

The standards in this chapter and regulations are interpreted in a manner consistent with The Standards of Professional Responsibility and the Standards of Practice adopted by the Academy of Nutrition and Dietetics Commission on Dietetic Registration.

40-17. Reporting of Disciplinary Actions.

The South Carolina Panel on Dietetics may report disciplinary actions to the Academy of Nutrition and Dietetics Commission on Dietetic Registration.

Fiscal Impact Statement:

There will be no cost incurred by the State or any of its political subdivisions.

Statement of Rationale:

These regulations are updated in conformance with current legislation.

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Document No. 4231

BOARD OF EXAMINERS FOR LICENSURE OF PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, AND PSYCHO-EDUCATIONAL SPECIALISTS

CHAPTER 36

Statutory Authority: 1976 Code Sections 40-1-40, 40-1-70 and 40-75-60

36-03. Meetings.

36-04. General Licensing Provisions for Professional Counselor Interns.

36-04.1. Specific Training Required for Interns to Assess and Treat Serious Problems as Categorized in Standard Diagnostic Nomenclature.

36-05. General Licensing Provisions for Licensed Professional Counselors.

36-08. General Licensing Provisions for Marriage and Family Therapists.

36-08.1. Specific Training Required for Persons Licensed as Marriage and Family Therapists to Assess and Treat Serious Problems as Categorized in Standard Diagnostic Nomenclature.

36-12. Reactivation of Expired Licenses.

36-15. Fees.

Synopsis:

To satisfy the requirements of licensure for professional counselors, marriage and family therapists, and psycho-educational specialists, Regulations 36-03 through 36-05, 36-08 through 36-08.1, 36-12, and 36-15 are updated in conformance with the current Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists Practice Act.

The Notice of Drafting was published in the *State Register* on November 25, 2011.

Instructions:

The following sections of Chapter 36 are modified as provided below. All other items and sections remain unchanged.

Text:

36-03. Meetings.

(1) The Board shall meet at least two (2) times a year and at other times upon the call of the president or a majority of the Board members.

(2) A majority of the members of the Board constitutes a quorum; however, if there is a vacancy on the Board, a majority of the members serving constitutes a quorum.

(3) Board members are required to attend meetings or to provide proper notice and justification of inability to attend. Unexcused absences from meetings may result in removal from the Board as provided in Section 1-3-240. Affirmative action by the Board is required to approve an excused absence, and the status of an absence as excused or unexcused is entirely within the Board's discretion.

36-04. General Licensing Provisions for Professional Counselor Interns.

An applicant for initial licensure as a professional counselor intern must:

(1) submit an application on forms approved by the Board, along with the required fee; and

(2) submit evidence of successful completion of a graduate degree with a minimum of forty-eight (48) graduate semester hours primarily in counseling or related discipline from a college or university accredited by the Commission on the Colleges of the Southern Association of Colleges and Schools, one of its transferring regional associations, the Association of Theological Schools in the United States and Canada, or a regionally-accredited institution of higher learning subsequent to receiving the graduate degree, along with

evidence of an earned master's degree, specialist's degree or doctoral degree. On one's graduate transcript the applicant must demonstrate successful completion of one (1) three-hour graduate level course in each of the following areas:

(a) Human growth and development: coursework content providing an understanding of the nature and needs of individuals at all developmental levels, normal and abnormal human behavior, personality theory, and learning theory (all) within cultural contexts; and

(b) Social and cultural foundations: coursework content providing an understanding of societal changes and trends, human roles, societal subgroups, social mores and interaction patterns, and differing lifestyles; and

(c) Helping relationships: coursework content providing an understanding of philosophic bases of helping processes, counseling theories and their applications, helping skills, consultation theories and applications, helper self-understanding and self-development, and facilitation of client or consultee change; and

(d) Groups: coursework content providing an understanding of group development, dynamics, and counseling theories; group leadership styles, group counseling methods and skills, and other group approaches; and

(e) Lifestyle and career development: coursework content providing an understanding of career development theories, occupational and educational information sources and systems, career and leisure counseling, guidance, and education; lifestyle and career decision-making; and career development program planning, resources, and evaluation; and

(f) Appraisal: coursework content providing an understanding of group and individual education and psychometric theories and approaches to appraisal, data, and information gathering methods, validity and reliability, psychometric statistics, factors influencing appraisals, and use of appraisal results in helping processes; and

(g) Research and evaluation: coursework content providing an understanding of types of research, basic statistics, research report development, research implementation, program evaluation, needs assessment, and ethical and legal considerations; and

(h) Professional orientation: coursework content providing an understanding of professional roles and functions, professional goals and objectives, professional organizations and associations, professional history and trends, ethical and legal standards, professional preparation standards, and professional credentialing; and

(i) Psychopathology: coursework content providing an understanding of psychopathology, abnormal psychology, abnormal behavior, etiology dynamics, and treatment of abnormal behavior; and

(j) Diagnostics: coursework content providing an understanding of the diagnostics of Psychopathology; and

(k) Practicum: a minimum of one (1) supervised one hundred fifty (150) hour counseling practicum; and

(3) submit evidence of a passing score on an examination approved by the Board; and

(4) submit a supervision plan, satisfactory to the Board, designed to take effect after notice of licensure as a Licensed Professional Counselor Intern.

36-04.1. Specific Training Required for Interns to Assess and Treat Serious Problems as Categorized in Standard Diagnostic Nomenclature.

In order for any person licensed as a Licensed Professional Counselor Intern to assess and treat serious problems as described in standard diagnostic nomenclature, a Licensed Professional Counselor Intern must have satisfied the following requirements in addition to the academic course requirements outlined in Section 36-04(2)(a-k):

(1) Completed a practicum as part of a degree program, as required in Section 36-04(2)(k) above, that dealt directly with the assessment and treatment of more serious problems as categorized in standard diagnostic nomenclature; and

(2) Completed an internship, as part of a degree program, of at least six hundred (600) hours under the supervision of a qualified licensed mental health practitioner that included experience assessing and treating clients with the more serious problems as categorized in standard diagnostic nomenclature.

36-05. General Licensing Provisions for Licensed Professional Counselors.

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An applicant for licensure as a professional counselor must:

- (1) submit an application on forms approved by the Board, along with the required fee; and
- (2) hold a current, active, and unrestricted professional counselor intern license; and
- (3) submit evidence satisfactory to the Board of a minimum of one thousand five hundred (1500) hours of supervised clinical experience in the practice of professional counseling performed over a period of not fewer than two (2) years under the supervision of a licensed professional counselor supervisor or other qualified licensed mental health practitioner as provided in Section 36-05.1. The experience must include a minimum of one thousand five hundred (1500) hours of direct counseling with individuals, couples, families, or groups of which a minimum of one hundred fifty (150) hours are to be spent in immediate supervision with the licensed professional counselor supervisor, including one hundred (100) hours of individual supervision and fifty (50) hours of either individual or group supervision; and
- (4) submit evidence that the supervision plan has been completed, including a recommendation by the licensed professional counselor supervisor, on forms approved by the Board.

36-08. General Licensing Provisions for Marriage and Family Therapists.

An applicant for licensure as a Marriage and Family Therapist must:

- (1) submit an application on forms approved by the Board, along with the required fee; and
- (2) hold a current, active, and unrestricted Marriage and Family Therapy Intern license unless applying under the provisions of Section 36-11; and
- (3) submit evidence satisfactory to the Board of a minimum of one thousand five hundred (1500) hours of supervised clinical experience in the practice of marriage and family therapy performed over a period of not fewer than two (2) years under the supervision of a licensed marriage and family therapy supervisor or other qualified licensed mental health practitioner as approved by the Board. The experience must include a minimum of one thousand five hundred (1500) hours of direct client contact with individuals, couples, families, or groups of which a minimum of one hundred and fifty (150) hours are to be spent in immediate supervision with the licensed marriage and family therapy supervisor, including one hundred (100) hours of individual supervision and fifty (50) hours of either individual or group supervision; and
- (4) submit evidence that the supervision plan has been completed, including a recommendation by the licensed marriage and family therapy supervisor, on forms approved by the Board.

36-08.1. Specific Training Required for Persons Licensed as Marriage and Family Therapists to Assess and Treat Serious Problems as Categorized in Standard Diagnostic Nomenclature.

In order for any person licensed as a Licensed Marriage and Family Therapist to assess and treat serious problems as described in standard diagnostic nomenclature, a Licensed Marriage and Family Therapist must have satisfied the following requirements:

- (A)(1) Completed a minimum of three (3) graduate semester hours in Psychopathology in academic training from a college or university approved by the Board. This course must provide the practitioner with an understanding of psychopathology, abnormal psychology, abnormal behavior, etiology dynamics, and treatment of abnormal behavior; and
- (2) Completed a minimum of three (3) graduate semester hours in Diagnostics in academic training from a college or university approved by the Board. This course must provide the practitioner with an understanding of the diagnostics of psychopathology; and
- (3) Completed a minimum of one thousand five hundred (1500) hours of post-degree supervised clinical experience in the practice of marriage and family therapy performed over a period of not fewer than two (2) years with an emphasis in the treatment of serious problems as categorized in standard diagnostic nomenclature, under the supervision of a licensed marriage and family therapy supervisor approved by the Board. The experience must include a minimum of one thousand five hundred (1500) hours of direct client contact with individuals, couples, families, or groups of which a minimum of one hundred and fifty (150) hours are to be spent in immediate supervision with the licensed marriage and family therapist supervisor, including one hundred (100) hours of individual supervision and fifty (50) hours of individual or group supervision.

(B) A licensee engaged in the assessment and treatment of serious problems as categorized in standard diagnostic nomenclature prior to the effective date of these regulations shall be authorized to continue engaging in such practice provided that the licensee has made proper application to the Board for designation not later than one year after the effective date of these regulations; and:

(1) has completed, within three (3) years after the effective date of these regulations, a minimum of three graduate semester hours in Psychopathology in academic training from a college or university approved by the Board. This course must provide the practitioner with an understanding of psychopathology, abnormal psychology, abnormal behavior, etiology dynamics, and treatment of abnormal behavior; and

(2) has completed, within three (3) years after the effective date of these regulations, a minimum of three graduate semester hours in Diagnostics in academic training from a college or university approved by the Board. This course must provide the practitioner with an understanding of the diagnostics of psychopathology; and

(C) Upon application to the Board and satisfactory proof of compliance with all applicable requirements to assess and treat serious problems as categorized in standard diagnostic nomenclature, the Board shall designate that the licensee is authorized to assess and treat the more serious problems as categorized in standard diagnostic nomenclature for which the licensee has met the requirements.

36-12. Reactivation of Expired Licenses.

(1) A licensed professional counselor, marriage and family therapist, psycho-educational specialist, professional counselor supervisor, or marriage and family therapist supervisor whose license has been expired for at least three (3) months, but fewer than two (2) years, may reactivate the license upon application, along with the required fee, and demonstration of evidence satisfactory to the Board on a form approved by the Board of the requisite continuing education hours for each year during which the license was expired. The Board for good cause may waive any part of this continuing education requirement upon appropriate conditions.

(2) A licensed professional counselor, marriage and family therapist, psycho-educational specialist, professional counselor supervisor, or marriage and family therapist supervisor whose license has been expired for more than two (2) years must re-apply and meet all of the requirements, at the time of application, for licensure.

(3) Any applicant for reactivation shall submit a notarized affidavit certifying that they have not been engaged in the practice of counseling, marriage and family therapy, psycho-education specialty outside of the school setting, professional counselor supervising or marriage and family therapy supervising during the period their license was not in an active status.

36-15. Fees.

(A) Fees are as follows:

(1) Application Fee – Application goes to Center for Credentialing Education (CCE) to be reviewed and approved

(2) Initial license fee

(a) Intern	\$150.00
(b) Professional Counselors	\$170.00
(c) Marriage and Family Therapists	\$170.00
(d) Psycho-educational Specialists	\$130.00
(e) Professional Counselor Supervisors	\$100.00
(f) Marriage and Family Therapy Supervisors	\$100.00

(3) Biennial license renewal

(a) Professional Counselors	\$150.00
(b) Marriage and Family Therapists	\$150.00
(c) Psycho-educational Specialists	\$150.00
(d) Professional Counselor Supervisors	\$100.00
(e) Marriage and Family Therapy Supervisors	\$100.00

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(4) Late Renewal Penalty (1 through 3 months)	\$50.00
(5) Reinstatement Fee	\$300.00 + renewal
(6) Examination Fee	
(a) Professional Counselors - paid to National Board for Certified Counselors (NBCC)	
(b) Marriage and Family Therapists – paid to Professional Examination Service (PES)	
(7) License Verification (copy of file)	\$15.00
(8) License verification to another state	\$5.00
(9) Name change and new license	no fee
(10) Duplicate license	
(a) Wall certificate	\$25.00
(b) License card	\$10.00
(11) Returned check charge	\$30.00
(or as otherwise established by law as administrative costs for returned checks)	
(B) All fees are nonrefundable.	

Fiscal Impact Statement:

There will be no cost incurred by the State or any of its political subdivisions.

Statement of Rationale:

These regulations are updated in conformance with the current Counselors Practice Act.

Document No. 4297

DEPARTMENT OF NATURAL RESOURCES

CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-11-10, 50-11-96, 50-11-105, 50-11-310, 50-11-335, 50-11-350, 50-11-390, 50-11-520, 50-11-530, 50-11-854, 50-11-2200 and 50-11-2210

- 123-40. Wildlife Management Area Regulations
- 123-50. Crow Hunting Season
- 123-51. Turkey Hunting Rules and Seasons
- 123-52. Either-sex Days for Private Lands in Game Zones 1-6

Synopsis:

These regulations replace the existing regulations that set seasons, bag limits and methods of hunting and taking of wildlife on existing and additional Wildlife Management Areas.

The Notice of Drafting for this regulation was published on August 24, 2012 in the *South Carolina State Register* Volume 36, Issue No. 8.

Instructions:

Strike and replace Regulations 123-40. Wildlife Management Area Regulations, 123-50. Crow Hunting Season, 123-51. Turkey Hunting Rules and Seasons, and 123-52. Either-sex Days for Private Lands in Game Zones 1-6.

Text:

ARTICLE 3

WILDLIFE AND FRESH WATER FISHERIES DIVISION—HUNTING REGULATIONS

SUBARTICLE 1

HUNTING IN WILDLIFE MANAGEMENT AREAS

123-40. Wildlife Management Area Regulations.

1.1 The regulations governing hunting including prescribed schedules and seasons, methods of hunting and taking wildlife, and bag limits for Wildlife Management Areas and special restrictions for use of WMA lands are as follows:

A. Game Zone 1**1. Other WMAs**

- (a) No more than 5 bucks total may be taken during all seasons combined, regardless of method (archery, muzzleloader, gun).
- (b) Archery Only Hunts for Deer (no dogs).
 - (i) Oct. 17 – Oct. 30, Dec. 23 – Jan. 1
 - (ii) Total of 2 deer for all archery only hunts. 2 per day. Either-sex.
- (c) Primitive Weapons for Deer (no dogs).
 - (i) Oct. 1 through Oct. 10
 - (ii) Total of 2 deer for primitive weapons hunt.
 - (iii) Muzzleloaders, 2 deer, buck only, except either-sex on days specified in Reg. 4.2. Archers allowed to take either-sex during entire period.
- (d) Still Gun Hunts for Deer (no dogs).
 - (i) Oct. 11 through Oct. 16; Oct. 31 – Jan. 1.
 - (ii) Total of 7 deer for all gun hunts. 2 deer per day, buck only except either-sex on days specified in Reg. 4.2. Archers allowed to take either-sex during entire period.
- (e) Still Gun Hunts for Bear.
 - (i) Oct. 17 through Oct. 23.
 - (ii) 1 bear, no bears 100 lbs. or less, no sow with cubs at her side.
- (f) Special Party Dog Hunt for Bear.
 - (i) Oct. 24 through Oct. 30.
 - (ii) 1 bear per person, 5 bears per party, no bears 100 lbs. or less, no sow with cubs at her side. Groups hunting together are considered 1 party. Hogs no limit.
 - (iii) Parties of 25 or less must register with SCDNR, 311 Natural Resources Drive, Clemson, SC 29631 by September 1.
 - (iv) All harvested bear must be tagged and reported to the Clemson Wildlife Office @ 864-654-1671 within 24 hours of harvest.
- (g) Small Game
 - (i) No hunting before Sept. 1 or after Mar. 1; otherwise, Game Zone 1 seasons apply.
 - (ii) US Forest Service Long Creek Tracts, Oconee County, small game only between Thanksgiving Day and March 1.
- (h) Hogs and Coyotes
 - (i) Feral hogs and coyotes may be taken during the open season for any game.
 - (ii) No hog hunting with dogs except during special designated hog hunts with dogs and during the party dog hunts for bear.
 - (iii) Hog hunters must use small game weapons during small game-only seasons.
 - (iv) Hog hunters are required to wear hat, coat or vest of solid international orange color while hunting.

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- (v) No hogs may be taken alive from WMA.
- (i) Hog Hunts with Dogs.
 - (i) Jan. 2 – Mar. 1.
 - (ii) Handguns only, four dog limit per party, daylight hours only, no limit on hogs.

2. Glassy Mountain Archery Only Area – Chestnut Ridge Heritage Preserve

- (a) Archery Only Hunts for Deer (no dogs).
 - (i) Oct. 1 – Oct. 16, Oct. 31 – Jan. 1
 - (ii) Total of 2 deer, 2 per day, either-sex.

3. Stumphouse WMA

(a) In order to fish or hunt Stumphouse WMA each adult (21 or older) must have at least one youth 17 or under accompanying them. Senior Citizens over 65 years of age are exempt from carrying a youth in order to fish. No motorized vehicles or horses allowed on the property except in designated parking areas. Walk in use only. Small game hunting only from Thanksgiving Day through March 1.

(b) No more than 5 bucks total may be taken during all seasons combined, regardless of method (archery, muzzleloader, gun).

- (c) Primitive Weapons for Deer (no dogs).
 - (i) Oct. 1 through Oct. 10
 - (ii) Muzzleloaders, 2 deer, buck only, 2 per day; archery 2 deer, 2 per day, either-sex.

(d) Still Gun Hunts for Deer (no dogs).

- (i) Oct. 11 through Oct. 16; Oct. 31 – Wed. before Thanksgiving.
- (ii) Total of 7 deer for all gun hunts. 2 deer per day, buck only except either-sex on days specified in

Reg. 4.2. Archers allowed to take either-sex during entire period.

(e) Small Game

- (i) No hunting before Thanksgiving Day or after Mar. 1.
- (ii) No small game hunting during gun hunts for deer, otherwise Game Zone 1 seasons apply.

4. Long Creek Tract

- (a) Game Zone 1 seasons, except small game only between Thanksgiving Day and Mar. 1.

B. Game Zone 2

1. Other WMAs

(a) No more than 5 bucks total may be taken during all seasons combined, regardless of method (archery, muzzleloader, gun). Individual Antlerless Deer Tags are valid starting Oct. 1. Worth Mountain WMA Quality Deer Management Area: bucks must have a minimum 4 points on one side or a minimum 12-inch antler spread.

(b) Archery Only Hunts for Deer (no dogs).

- (i) Sept. 15 – Sept. 30, Monday after Thanksgiving through 3rd Sat. after Thanksgiving.
- (ii) Total of 3 deer for all archery only hunts, 2 per day, either-sex.

(c) Primitive Weapons for Deer (no dogs).

- (i) Oct. 1 through Oct. 10
- (ii) Total of 2 deer for primitive weapons hunt.
- (iii) Muzzleloaders, buck only, except either-sex on days specified in Reg. 4.2. Archers allowed to take

either-sex during entire period.

(d) Still Gun Hunts for Deer (no dogs).

- (i) Oct. 11 through the Sat. after Thanksgiving, 3rd Mon. after Thanksgiving through Jan. 1.
- (ii) Total of 10 deer for all gun hunts. 2 deer per day, buck only except either-sex on days specified in

Reg. 4.2. Archers allowed to take either-sex during entire period.

(e) Small Game

- (i) No hunting before Sept. 1 or after Mar. 1; otherwise, Game Zone 2 seasons apply.

(f) Hogs and Coyotes

- (i) Feral hogs and coyotes may be taken during the open season for any game.
- (ii) Hog hunters must use small game weapons during small game-only seasons.
- (iii) Hog hunters are required to wear hat, coat or vest of solid international orange color while hunting.
- (iv) No hogs may be taken alive from WMA.

- (g) Hog Hunts with Dogs.
 - (i) Feb. 1 – Feb. 15
 - (ii) Handguns only, four dog limit per party, daylight hours only, no limit on hogs.

2. Keowee WMA

- (a) No hunting is allowed in research and teaching areas of Keowee WMA posted with white signs except those special hunts for youth or mobility-impaired as conducted by the Department.
- (b) Archery Hunts for Deer (no dogs)
 - (i) Oct. 15- Dec. 22
 - (ii) Total 3 deer, 2 per day, either-sex, not to include more than 1 buck.
- (c) Quail Hunts
 - (i) Wed. and Sat. only during Game Zone 2 seasons.
 - (ii) 10 quail per day.
 - (iii) No hunting for quail during archery hunts for deer.
- (d) Other Small Game
 - (i) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 2 season applies.
 - (ii) Game Zone 2 bag limit.
 - (iii) North of Hwy 123 and west and east of the Keowee Arm of Lake Hartwell to Hwy 291 and across from Corinth Shiloh Fire Station and behind Jacobs Chuck, small game hunting with shotguns only. All other areas archery only for small game.
- (e) Hogs and Coyotes
 - (i) Feral hogs and coyotes may be taken during the open season for any game.
 - (ii) No hog hunting with dogs except during special designated hog hunts with dogs and during the party dog hunts for bear.
 - (iii) Hog hunters must use small game weapons during small game-only seasons.
 - (iv) Hog hunters are required to wear hat, coat or vest of solid international orange color while hunting.
 - (v) No hogs may be taken alive from WMA.

3. Draper WMA

- (a) Quail Hunts
 - (i) 1st and 2nd Sat. in Dec., 3rd and 4th Wed. in Dec., 1st and 2nd Wed. and Sat. in Jan.
 - (ii) 10 quail per day.
 - (iii) Sunrise until 4:00 PM.
- (b) Rabbit Hunts
 - (i) 1st Wed. after Thanksgiving, Wed. in Dec. prior to the 2nd Sat. in Dec., Wed. and Sat. in Jan. following the last scheduled quail hunt until Mar. 1.
 - (ii) 3 per day.
- (c) Other Small Game
 - (i) No hunting before Sept. 1 or after Mar.; otherwise Game Zone 2 seasons apply.
 - (ii) Game Zone 2 bag limit.
 - (iii) No open season on fox squirrels.

4. Fants Grove WMA

- (a) Quality Deer Management Area – bucks must have at least 4 points on one side or a minimum 12-inch spread. A point must be at least one inch long. During Fant’s Grove draw hunts for deer, all hunters must sign in at the Fant’s Grove DNR checkpoint. Fant’s Grove DNR check point will open 2 hours before official sunrise for deer hunts.
- (b) Archery Only Deer Hunts (no dogs).
 - (i) Oct. 15- Dec. 22
 - (ii) Total 3 deer, 2 per day, either-sex, not to include more than 1 buck.
- (c) Still Gun Hunts for Deer (no dogs).
 - (i) No open season except for hunters selected by computer drawing.
 - (ii) Total of 2 deer, either-sex except no more than 1 buck.
- (d) Special Gun Hunts for Youth, mobility impaired, women and primitive weapons.
 - (i) Hunters selected by drawing.
 - (ii) Total 2 deer, either-sex

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(e) Small Game

(i) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 2 seasons apply.

(ii) Game Zone 2 bag limit.

(iii) No small game hunting during archery only deer hunts except for waterfowl or designated dove field hunting.

(iv) Waterfowl may be hunted Wed. and Sat. AM only.

(v) Quail hunting Wed. and Sat. only.

(f) Hogs and Coyotes

(i) Feral hogs and coyotes may be taken during the open season for any game.

(ii) No hog hunting with dogs except during special designated hog hunts with dogs and during the party dog hunts for bear.

(iii) Hog hunters must use small game weapons during small game-only seasons.

(iv) Hog hunters are required to wear hat, coat or vest of solid international orange color while hunting.

(v) No hogs may be taken alive from WMA.

5. Rock Hill Blackjacks HP WMA

(a) Archery Only Deer Hunts (no dogs).

(i) Sept. 15 – 30, Mon. after Thanksgiving Day – Jan. 1.

(ii) Total 3 deer, 2 per day, either-sex.

(b) Small Game

(i) No small game hunting.

6. Belfast WMA

(a) All terrain vehicles are prohibited except those permitted by SCDNR for special management activities. Fishing is not allowed except through permitted special events. All hunters must sign in and sign out daily upon leaving Belfast WMA. All harvested deer and turkeys must be checked in at the Belfast Check Station. Belfast WMA is open to public access during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) except during special hunts and events regulated by DNR. Hunters may not enter the WMA prior to 5:00 AM on designated hunts. Public visitation is not allowed during scheduled deer and turkey hunts. Data cards required for hunter access. Completed data cards must be returned daily upon leaving Belfast WMA. Hunters are required to have a data card in possession while on the property during scheduled hunts.

(b) No more than 3 deer total may be taken per hunt period, regardless of method (archery, muzzleloader, gun). 2 deer per day, either-sex. No more than 1 buck with a minimum of 4 points on one side or a 12" minimum antler spread.

(c) Archery Only Hunts for Deer (no dogs).

(i) 1st Mon. – Sat. after Sept. 15

(d) Archery and Muzzleloader for Deer (no dogs).

(i) 1st Sat. in Oct.

(e) Still Gun Hunts for Deer (no dogs, no buckshot).

(i) No open season except for hunters selected by computer drawing.

(f) Hogs and Coyotes

(i) Feral hogs and coyotes may be taken during any scheduled hunts only with weapons allowed for current open season. No hog hunting with dogs except during special designated hog hunts with dogs. No limit on hogs or coyotes.

(g) Small Game

(i) Dec. 10 – Mar. 1

(ii) Game Zone 2 bag limits.

(iii) No open season for fox squirrels, fox or bobcats.

7. Broad River Waterfowl Management Area

(a) Archery Deer Hunts

(i) Sept. 15 – Oct. 31.

(ii) Game Zone 2 limits.

(b) Raccoon Hunts

(i) Feb. 2 – Mar. 1.

(ii) Game Zone 2 limits.

- (c) Small Game
 - (i) Feb. 2 – Mar. 1.
 - (ii) Game Zone 2 limits.

C. Game Zone 3

1. Other WMAs

- (a) Game Zone 3 bag limits. Buck only except on Game Zone 3 either-sex days as specified in Reg. 4.2. Individual antlerless deer tags are valid starting Sept. 15. Tags do not alter daily or season bag limits.
- (b) Still Gun Hunts and Archery (no dogs).
 - (i) No hunting before Sept. 1 or after Jan. 1
- (c) Small Game
 - (i) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 3 seasons apply.
 - (ii) Game Zone 3 bag limits.
- (d) Hogs and Coyotes.
 - (i) Hogs and coyotes may be taken during the open season for game.
 - (ii) No hog or coyote hunting during still gun hunts for deer.
 - (iii) Only small game weapons allowed during the small game-only seasons.
 - (iv) During turkey season, hogs may be taken using legal weapons for turkey only.

2. Crackerneck WMA and Ecological Reserve

- (a) All individuals must sign in and out at main gate. Quality Deer Management Area – antlered deer must have at least 4 points on one side or a minimum 12-inch antler spread. Scouting seasons (no weapons), will be Saturdays only during September and March. The gate opens at 6:00am and closes at 8:00pm. On deer hunt days, gates will open as follows: Oct., 4:30am-8:30pm; Nov. - Dec., 4:30am-7:30pm. For special hog hunts in Jan. and Feb., gate will be open from 5:30am-7:00pm. Hog hunters are required to wear either a hat, coat or vest of international orange. Hogs may NOT be taken from Crackerneck alive and hogs must be shown at check station gate. No more than 4 bay or catch dogs per party. On Saturday night raccoon hunts, raccoon hunters must cease hunting by midnight and exit the gate by 1:00am. On Friday night raccoon hunts, raccoon hunters must cease hunting by 1 hour before official sunrise and exit the gate by official sunrise. All reptiles and amphibians are protected. No turtles, snakes, frogs, toads, salamanders etc. can be captured, removed, killed or harassed.
 - (b) Archery Deer Hunts (no dogs).
 - (i) 1st Fri. and Sat. in Oct
 - (ii) 2 deer, either-sex, no more than 1 buck, no limit on hogs.
 - (c) Archery and Muzzleloader Deer Hunts (no buckshot).
 - (i) 2nd Fri. and Sat. in Oct.
 - (ii) 2 deer, either-sex, no more than 1 buck, no limit on hogs
 - (d) Still Gun Hunts for Deer (no buckshot).
 - (i) 3rd Fri. in Oct. – Jan. 1, Fri., Sat. and Thanksgiving Day only except closed Dec. 25.
 - (ii) 5 deer total, 2 per day, buck only except on either-sex days Fri. and Sat. only from the 1st Fri. of gun hunts before Thanksgiving and the 1st Fri. and Sat. after Thanksgiving weekend. Total not to include more than 3 bucks.
 - (e) Raccoon and Opossum
 - (i) 3rd Sat. night in Oct. – Jan. 1, Sat. nights only, except closed Dec. 25, 1st Fri. night in Jan. to last Fri. or Sat. night in Feb., Fri. and Sat. nights only.
 - (ii) 3 raccoons per party per night. No limit on opossums.
 - (f) Hog Hunts with Dogs (pistols only)
 - (i) 1st Fri. after Jan. 1 – last Fri. in Feb. Fridays only.
 - (ii) No limit.
 - (g) Small Game (except no open season on bobcats, foxes, otters or fox squirrels).
 - (i) 3rd Fri. in Oct. – last Fri. or Sat. in Feb. Fri., Sat. and Thanksgiving Day only except closed Dec. 25.
- 3. Aiken Gopher Tortoise Heritage Preserve WMA**
- (a) Total 3 deer for all deer hunts, not to include more than 2 bucks. Hogs no limit.
 - (b) Archery Deer Hunts (no dogs).
 - (i) Oct. 1 – Jan. 1

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4.2. (ii) 1 deer per day, buck only, except either-sex on Game Zone 3 either-sex days as specified in Reg.

(c) Still Gun Hunts for Deer (no buckshot).

(i) Oct. 1 – Jan. 1.

(ii) 1 deer per day, buck only, except either-sex on Game Zone 3 either-sex days as specified in Reg.

4.2.

(d) Raccoon and Opossum

(i) Thanksgiving night – Mar. 1.

(ii) 3 raccoons per party per night. No limit on opossum.

(e) Still Gun Hunts for Hogs.

(i) Oct. 1 – Jan. 1.

(ii) No limit.

(f) Small Game (except no open season on fox squirrels).

(i) Thanksgiving night – Mar. 1.

(ii) Game Zone 3 limits.

4. Ditch Pond Heritage Preserve WMA

(a) Total 3 deer for all deer hunts, not to include more than 2 bucks.

(b) Archery Deer Hunts (no dogs).

(i) Oct. 1 – Jan. 1.

(ii) 1 deer per day, buck only, except either-sex on Game Zones 3 and 6 either-sex days as specified in Reg. 4.2.

(c) Hogs and Coyotes

(i) Feral hogs and coyotes may be taken during any scheduled hunts only with weapons allowed for current open season. No hog hunting with dogs except during special designated hog hunts with dogs. No limit on hogs or coyotes.

(d) Small Game (except no open season on fox squirrels).

(i) Thanksgiving day – Mar. 1.

(ii) Game Zone 3 and 6 bag limits.

5. Henderson Heritage Preserve WMA

(a) Total 3 deer for all deer hunts, not to include more than 2 bucks.

(b) Archery Deer Hunts (no dogs).

(i) Oct. 1 – Jan. 1.

(ii) 1 deer per day, buck only, except either-sex on Game Zone 3 either-sex days as specified in Reg.

4.2.

(c) Hogs and Coyotes

(i) Feral hogs and coyotes may be taken during any scheduled hunts only with weapons allowed for current open season. No hog hunting with dogs except during special designated hog hunts with dogs. No limit on hogs or coyotes.

D. Game Zone 4

1. Other WMAs

(a) Individual antlerless deer tags are valid starting Sept. 15. Tags do not alter daily or season bag limits.

(b) Archery Deer Hunts (no dogs).

(i) Sept. 1 – 14.

(ii) Total of 3 deer for all archery hunts, 2 per day.

(c) Still Gun and Archery Hunts for Deer (no dogs).

(i) Sept. 15 – Jan. 1.

(ii) Total of 10 deer for all gun hunts, 2 per day, buck only except on Game Zone 4 either-sex days as prescribed in Reg. 4.2. Limit of 10 may not include more than 5 bucks. Male deer required 2 inches of visible antler above the hairline be legal. Male fawns (button bucks) are considered antlerless deer, legal only during either-sex hunts; however, they apply toward the buck limit.

(d) Small Game

(i) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 4 seasons apply.

(ii) Game Zone 4 bag limits.

- (e) Hogs and Coyotes.
 - (i) Hogs and coyotes may be taken during the open season for game.
 - (ii) No hog or coyote hunting with dogs during still gun hunts for deer.
 - (iii) Only small game weapons allowed during the small game-only seasons.
 - (iv) During turkey season, hogs may be taken using legal weapons for turkey only.

2. Marsh WMA

- (a) All visitors to Marsh WMA are required to sign in upon entry to the WMA and sign out upon exit from the WMA and provide any additional information requested. Sign in sheets are located at the informational kiosk. Hogs may be taken only during deer hunts or scheduled hog hunts. No ATVs allowed. Still hunting for deer only, no deer dogs, no buckshot. Total of 3 deer for all deer hunts combined.
- (b) Special Hunt Area for Youth and Mobility Impaired Hunters
 - (i) No open season except for hunters selected by drawing.
 - (ii) 1 deer per day, either-sex.
- (c) Archery Deer Hunts
 - (i) 1st Mon. – Sat. in Oct.
 - (ii) 1 deer per day, either-sex, hogs no limit.
- (d) Archery and Muzzleloader Deer Hunts
 - (i) 2nd Mon. – Sat. in Oct., 3rd Mon. – Sat. in Oct.
 - (ii) 1 deer per day, either-sex, hogs no limit.
- (e) Still Gun Hunts for Deer
 - (i) 4th Mon. in Oct. – Sat. before the 1st Mon. in Nov., 1st Mon. in Nov. – following Sat., 2nd Mon. in Nov. – following Sat.
 - (ii) 1 deer per day, buck only. Hogs no limit.
- (f) Still Hog Hunts
 - (i) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.
 - (ii) Mar. 1 – 3rd Sat. in Mar., May 2 – last Sat. in June (Thurs. – Sat. only), 1st Mon. in Aug. – last Sat. in Aug. (Thurs. – Sat. only).
 - (iii) No limit.
- (g) Hog Hunts with Dogs
 - (i) 1st Mon. in Jan. – 4th Sat. in Jan., 1st Mon. in July – last Sat. in July (Thurs. – Sat. only),
 - (ii) No more than 4 bay or catch dogs per party.
 - (iii) No live hogs removed from WMA.
 - (iv) Handguns only.
- (h) Raccoon Hunts
 - (i) Sept. 15 – Mar. 1, nights only.
 - (ii) 3 per party per night.
- (i) Small Game (open only for rabbit, gray squirrel, opossum, quail and woodcock. No open season on fox squirrels.
 - (i) Thanksgiving – Mar. 1 (Wed. – Sat. only)
 - (ii) Game Zone 4 limits.
 - (iii) Woodcock Wed. – Sat. only during the Federal Woodcock Season, Federal bag limits.

3. Sand Hills State Forest WMA

- (a) Hunting by the general public closed during scheduled field trials on the Sand Hills State Forest Special Field Trial Area. Hunting allowed during permitted field trials on the Sand Hills State Forest Special Field Trial Area in compliance with R.123-96. No man-drives allowed. No buckshot allowed. Individual Antlerless Deer Tags valid on days not designated as either-sex after Sept. 15.
- (b) Archery Deer Hunts
 - (i) Sept. 15 – Jan. 1
 - (ii) Total of 3 deer, 2 per day, either-sex
- (c) Still Gun Hunts for Deer (no dogs).
 - (i) Oct. 1 – Jan. 1

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(ii) Total of 10 deer, 2 per day, buck only except either-sex on Game Zones 4 and 5 either-sex days specified in Reg. 4.2. No more than 5 bucks.

(d) Special Coyote Still Hunt (no dogs).

(i) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns.

(ii) Mar. 1 – 3rd Sat. in Mar.

(iii) No limit.

(e) Small Game

(i) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zones 4 and 5 seasons apply. No daytime fox hunting from Sept. 15 – Jan. 1.

(ii) Game Zones 4 and 5 bag limits.

4. McBee WMA

(a) Archery Deer Hunts

(i) Sept. 15 – Sat. after Thanksgiving.

(ii) Total of 3 deer, 2 per day, either-sex.

(b) Still Gun Hunts for Deer (no dogs, no buckshot).

(i) Oct. 1 – Sat. after Thanksgiving.

(ii) Total of 10 deer, 2 per day, buck only except either-sex on Game Zone 4 either-sex days during the McBee still gun hunt season. No more than 5 bucks.

(c) Small Game

(i) Quail – no open season except hunter selected by drawing, 10 quail per day.

(ii) Other Small Game (no open season for fox squirrels).

(1) No small game hunting during scheduled deer hunting periods.

(2) No hunting before Mon. following the 2nd Sat. in Jan. or after Mar. 1; otherwise Game Zone 4 seasons apply.

(3) Game Zone 4 limits.

5. Pee Dee Station Site WMA

(a) All visitors are required to sign in upon entry to the WMA and sign out upon exit and provide any additional information requested on sign in sheets at the kiosk. Hogs may be taken only during deer hunts or scheduled hog hunts. No ATVs allowed.

(b) Total of 3 deer for all hunt periods combined. Still hunting only, no deer dogs, no buckshot. The scouting seasons are 2-day periods on Sat. and Sun. immediately preceding hunt periods.

(c) Archery Deer Hunts

(i) 1st Mon. – Sat. in Oct.

(ii) 1 deer per day, either-sex.

(d) Archery and Muzzleloader Deer Hunts

(i) 3rd Mon. – Sat. in Oct., 1st Mon. – Sat. in Nov.

(ii) 1 deer per day, either-sex.

(e) Still Hog Hunts (no dogs)

(i) Archery, crossbows and muzzleloading rifles.

(ii) Mar. 1 – 3rd Sat. in Mar.

(iii) No limit. No bay or catch dogs.

(f) Raccoon

(i) Sept. 15 – Mar. 1 nights only.

(ii) Limit 3 per party per night.

(g) Small Game

(i) Sat. after Thanksgiving – last Wed. and Sat. in Feb. Wed. and Sat. only.

(ii) Game Zone 4 bag limits.

6. Woodbury WMA

(a) All visitors are required to sign in upon entry and sign out upon exit and provide any additional information requested on sign in sheets at the kiosk. Hogs may be taken only during deer hunts or scheduled hog hunts. No ATVs allowed.

(b) Quality Deer Management Area – Antlered deer must have at least 4 points on 1 side or a minimum 12-inch antler spread. A point must be at least 1 inch long measured from the nearest edge of the main beam to the top of the point. No more than 3 bucks total may be taken during all seasons combined regardless of method. No buckshot.

(c) Archery Deer Hunts

- (i) Sept. 15 – 1st Sat. in Oct.
- (ii) 1 deer per day, either-sex. Hogs no limit.

(d) Archery and Muzzleloader Deer Hunts

- (i) Mon. following 1st Sat. in Oct. – 3rd Sat. in Oct.
- (ii) 1 deer per day, either-sex. Hog no limit.

(e) Still Gun Hunts for Deer

- (i) Mon. following 3rd Sat. in Oct. – Jan. 1.
- (ii) 1 deer per day, bucks only except on scheduled county-wide either-sex days. Hog no limit.

(f) Still Hog Hunts (no dogs)

(i) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.

(ii) Mar. 1 – 3rd Sat. in Mar., May 2 – last Sat. in June (Thurs. – Sat. only), 1st Mon. in Aug. – last Sat. in Aug. (Thurs. – Sat. only).

(iii) No limit.

(g) Hog Hunts with Dogs

- (i) 1st Mon. in Jan. – 4th Sat. in Jan., 1st Mon. in July – last Sat. in July (Thurs. – Sat. only).
- (ii) No more than 4 bay or catch dogs per party.
- (iii) No live hogs removed from WMA.
- (iv) Handguns only.

(h) Raccoon

- (i) Sept. 15 – Mar. 1
- (ii) Limit 3 per party per night.

(i) Small Game (no fox squirrels)

- (i) Gray squirrels and Quail
 - (1) Mon. following 2nd Sat. in Dec. – Mar. 1
 - (2) Game Zone 4 bag limits.
- (ii) Rabbits
 - (1) Jan. 1 – Mar. 1
 - (2) Game Zone 4 bag limits.

(j) Fox

- (i) Fri. after Thanksgiving – Mar. 1. Night only.
- (ii) Game Zone 4 bag limits.

E. Game Zone 5

1. Other WMAs

(a) Archery Deer Hunts

- (i) Sept. 1 – Jan. 1
- (ii) Total 5 deer per season. Buck only except on Game Zone 5 either-sex days as specified in Reg. 4.2. Individual antlerless deer tags are valid starting Sept. 15. Tags do not alter daily or season bag limits.

(b) Still Gun Hunts for Deer (no dogs, no buckshot).

- (i) Sept. 15 - Jan. 1
- (ii) Total 5 deer per season. Buck only except on Game Zone 5 either-sex days as specified in Reg. 4.2. Individual antlerless deer tags are valid starting Sept. 15. Tags do not alter daily or season bag limits.

(c) Small Game

- (i) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 5 seasons apply.
- (ii) Game Zone 5 bag limits.

(d) Hogs and Coyotes.

- (i) Hogs and coyotes may be taken during the open season for game.
- (ii) No hog or coyote hunting with dogs during still gun hunts for deer.

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(iii) Only small game weapons allowed during the small game-only seasons.

(iv) During turkey season, hogs may be taken using legal weapons for turkey only.

2. Great Pee Dee Heritage Preserve WMA

(a) All visitors are required to sign in upon entry and sign out upon exit and provide any additional information requested on sign in sheets at the kiosk. Hogs may be taken only during deer hunts or scheduled hog hunts. No ATVs allowed.

(b) Total 3 deer for all hunts. For big game hunting, access is restricted from two hours before sunrise to two hours after official sunset. Still hunting only, no deer dogs, no buckshot, no hunting from motor vehicles or boats, no hog dogs.

(c) Archery Deer Hunts

(i) 1st Mon. in Oct. – following Sat., 2nd Mon. in Oct. – the following Sat.

(ii) 1 deer per day, either-sex. Hogs no limit.

(d) Archery and Muzzleloader Deer Hunts

(i) 4th Mon. in Oct. – following Sat.

(ii) 1 deer per day, either-sex. Hogs no limit.

(e) Still Gun Hunts for Deer

(i) 1st Mon. in Nov. – following Sat.

(ii) 1 deer per day, buck only. Hogs no limit.

(f) Still Hog Hunts (no dogs)

(i) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.

(ii) 1st Mon. in Feb. – last Sat. in Feb.

(iii) No limit.

(g) Raccoon

(i) Sept. 15 – Mar. 1. Night only.

(ii) Limit 3 per party per night.

(h) Small Game (no fox squirrels)

(i) Gray squirrels

(1) Mon. following the last Sat. of Deer Season – last Sat. in Jan.

(2) Game Zone 5 bag limits.

(ii) Woodcock during Federal Season and Federal bag limits.

3. Longleaf Pine Heritage Preserve WMA

(a) Total 2 deer for all hunts. Still hunting only, no deer dogs, no buckshot, no hunting from motor vehicles. Individual Antlerless Deer Tags valid on days not designated as either-sex after Sept. 15.

(b) Archery Deer Hunts

(i) Sept. 1 – 14.

(ii) 2 deer per day, buck only.

(c) Archery and Still Gun Hunts for Deer

(i) Sept. 15 – the day before Thanksgiving Day.

(ii) 2 deer per day, either-sex.

(d) Small Game (no fox squirrels)

(i) No small game hunting during scheduled deer hunt periods.

(ii) Thanksgiving Day – Mar. 1

(iii) Game Zone 5 bag limits.

4. Manchester State Forest WMA

(a) Total of 5 deer per season for all hunts. Deer must be checked at the check station. No man-drives during either-sex still gun hunts.

(b) Archery Deer Hunts

(i) 3rd Mon. in Sept. – the following Sat.

(ii) 1 deer per day, either-sex.

(c) Archery and Muzzleloader Deer Hunts

(i) 4th Mon. in Sept. – following Sat.

(1) 1 deer per day, buck only.

- (ii) Fri. during archery and muzzleloader season.
 - (1) 1 deer per day, either-sex.
- (d) Deer Hunts with Dogs
 - (i) Clubs selected by computer drawing.
 - (ii) 10 deer per day per club, 1 deer per person. Buck only except by tags issued the day of the hunt.
- (e) Still Gun Hunts for Deer (no dogs, no buckshot)
 - (i) 5th Mon. in Sept. – following Sat., 1st Mon. in Oct. – following Sat., 2nd Mon. in Oct. – following Sat., 3rd Tues. in Oct. – following Fri., 4th Tues in Oct. – following Fri., 5th Tues. in Oct. – following Thurs., 1st Tues. in Nov. – following Fri., 2nd Tues in Nov. – following Sat., 3rd Tues. in Nov. – following Fri., Mon. – Sat. the week of Thanksgiving, 4th Mon. in Nov. – following Fri., 1st Tues. in Dec. – following Fri., 1st full week following the 1st Tues. in Dec. – following Fri., 2nd full week following the 1st Tues. in Dec. – following Fri., 3rd full week following 1st Tues. in Dec. – following Sat.
 - (ii) 1 deer per day, buck only, except on either-sex hunts published annually.
 - (iii) In years when there is a fifth Tues. in Oct., additional deer hunts may be scheduled on Fri. and Sat. during Oct. and Nov.
 - (iv) In years when there is a fifth Mon. in Dec., additional hunts may be scheduled that week.
- (f) Hogs and Coyotes
 - (i) Feral hogs and coyotes may be taken during any scheduled hunts only with weapons allowed for current open season. No hog hunting with dogs except during special designated hog hunts with dogs. No limit on hogs or coyotes.
- (g) Raccoon and Fox
 - (i) Thanksgiving Day – 2nd Sat. in Mar.
 - (ii) Raccoon 3 per party per night, fox no limit during gun season.
- (h) Quail (except Bland and Tuomey Tracts)
 - (i) Thanksgiving – Mar. 1.
 - (ii) Game Zone 5 bag limits.
- (i) Quail (Bland and Tuomey Tracts)
 - (i) Designated days within Game Zone 5 quail season.
 - (ii) Game Zone 5 bag limits.
 - (iii) Hunters must pick up and return data cards at access points.
- (j) Squirrel and Rabbit
 - (i) Thanksgiving Day – Mar. 1 except no squirrel or rabbit hunting on Bland and Tuomey Tracts during scheduled quail hunts.
 - (ii) Game Zone 5 limits.

5. Lynchburg Savanna Heritage Preserve WMA

- (a) Small Game Only (no fox squirrels)
 - (i) No hunting before Sept. 1 or after Mar. 1 otherwise Game Zone 5 seasons.
 - (ii) Game Zone 5 bag limits.

6. Hickory Top WMA

- (a) Data cards required for hunter access. Completed data cards must be returned daily upon leaving. The Greentree Reservoir is open to hunting during the regular Hickory Top seasons during years when the Greentree Reservoir remains unflooded.
- (b) Total 8 deer per season.
- (c) Archery Deer Hunts (no dogs)
 - (i) Sept. 1 – Jan. 1.
 - (ii) 2 deer per day, except either-sex Sept. 15 – Jan. 1.
- (d) Archery and Muzzleloader Deer Hunts (no dogs)
 - (i) 1st Mon. in Nov. – Jan. 1.
 - (ii) 2 deer per day, either-sex.
- (e) Hogs and Coyotes
 - (i) Feral hogs and coyotes may be taken during any scheduled hunts only with weapons allowed for current open season. No hog hunting with dogs except during special designated hog hunts with dogs. No limit on hogs or coyotes.

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- (f) Still Hog Hunts (no dogs)
 - (i) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.
 - (ii) 1st two full weeks in Mar.
 - (iii) No limit.
- (g) Hog Hunts with Dogs
 - (i) Last two full weeks in Mar.
 - (ii) No more than 4 bay or catch dogs per party.
 - (iii) No live hogs removed from WMA.
 - (iv) Handguns only.
- (h) Small Game (no fox squirrels)
 - (i) No hunting before Sept. 1 or after Mar. 1; otherwise, Game Zone 5 seasons apply.
 - (ii) Game Zone 5 bag limits except quail 8 per day.

7. Oak Lea WMA

- (a) Data cards required for hunter access during archery deer hunts, turkey hunts and small game hunts. Completed data cards must be returned daily upon leaving the WMA.
- (b) Archery Deer Hunts
 - (i) Sept. 15 - 22
 - (ii) 2 deer per day, either-sex
- (c) Archery and Muzzleloader Deer Hunts
 - (i) Sept. 23 – 30
 - (ii) 2 deer per day, either-sex.
- (d) Still Gun Hunts for Deer
 - (i) No open season except hunters selected by drawing.
 - (ii) 3 deer per day, either-sex; 1 buck per day limit.
 - (iii) Total 20 deer per hunt party.
- (e) Hogs and Coyotes
 - (i) Feral hogs and coyotes may be taken during any scheduled hunts only with weapons allowed for current open season. No hog hunting with dogs except during special designated hog hunts with dogs. No limit on hogs or coyotes.
- (f) Small Game (except quail)
 - (i) Jan. 2 – Mar. 1 except no small game hunting during scheduled quail hunts.
 - (ii) Game Zone 5 bag limits.
- (g) Quail
 - (i) Designated dates within Game Zone 5 season.
 - (ii) Game Zone 5 limits.

8. Santee Dam WMA

- (a) Total 8 deer per season.
- (b) Archery Deer Hunts (no dogs)
 - (i) Sept. 1 – Jan. 1.
 - (ii) 2 deer per day, buck only, except either-sex Sept. 15 – Jan. 1. Hogs no limit.
- (c) Archery and Muzzleloader Deer Hunts (no dogs)
 - (i) Sept. 15 – Jan. 1
 - (ii) 2 deer per day, either-sex. Hogs no limit.
- (d) Hog Hunts with Archery and Muzzleloader (no dogs)
 - (i) Jan. 2 – Mar. 1
 - (ii) No limit.
- (e) Hog Hunts with Dogs
 - (i) 1st two full weeks in Mar., daylight hours only.
 - (ii) No more than 4 bay or catch dogs per party.
 - (iii) No live hogs removed from WMA.
 - (iv) Handguns only.

- (f) Small Game (no fox squirrels)
 - (i) Jan. 2 – Mar. 1.
 - (ii) Game Zone 5 bag limits.

9. Wee Tee WMA

- (a) Hogs may be taken only during deer hunts or scheduled hog hunts.
- (b) Total 8 deer per season.
- (c) Archery Deer Hunts
 - (i) Sept. 15 – 1st Sat. in Oct.
 - (ii) 1 deer per day, either-sex. Hogs no limit.
- (d) Archery and Muzzleloader Deer Hunts
 - (i) Mon. following 1st Sat. in Oct. – 3rd Sat. in Oct.
 - (ii) 1 deer per day, either-sex. Hogs no limit.
- (e) Still Gun Hunts for Deer (no dogs, no buckshot)
 - (i) Mon. following 3rd Sat. in Oct. – Jan. 1
 - (ii) 1 deer per day, bucks only except either-sex on County-wide either-sex days. Hogs no limit.
- (f) Still Hog Hunts (no dogs)
 - (i) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.
 - (ii) Mar. 1 – 3rd Sat. in Mar., May 2 – last Sat. in June (Thurs. – Sat. only), 1st Mon. in Aug. – last Sat. in Aug. (Thurs. – Sat. only).
 - (iii) No limit.
- (g) Hog Hunts with Dogs
 - (i) 1st Mon. in Jan. – 4th Sat. in Jan., 1st Mon. in July – last Sat. in July (Thurs. – Sat. only).
 - (ii) No more than 4 bay or catch dogs per party.
 - (iii) No live hogs removed from WMA.
 - (iv) Handguns only.
- (h) Raccoon
 - (i) Sept. 15 – Mar. 1 night only
 - (ii) Limit 3 per party per night.
- (i) Small Game except Gray squirrels (no fox squirrels, no fox hunting)
 - (i) No hunting before Sept. 1 or after Mar. 1.
 - (ii) Game Zone 5 bag limits.
 - (iii) Dogs allowed during small game gun season only.
- (j) Gray squirrels
 - (i) Jan. 2 – last Sat. in Feb.
 - (ii) Game Zone 5 bag limits.

10. Santee Delta WMA

- (a) Archery Deer Hunts
 - (i) 1st Sat. in Oct. – last Sat. in Oct.
 - (ii) 2 deer per day, either-sex. Hogs no limit.
- (b) Still Hog Hunts
 - (i) Archery only
 - (ii) 1st Sat. in Mar. – last Sat. in Mar. (impoundments only)
 - (iv) No limit. No live hogs removed from WMA.
- (c) Hog Hunts with Dogs
 - (i) Mon. following the last Sat. in Mar. – the following Sat. (impoundments only)
 - (ii) No limit.
 - (iii) Handguns only, limit 4 bay or catch dogs per party.
 - (iv) No live hogs removed from WMA.

11. Samworth WMA

- (a) Archery Deer Hunts
 - (i) 1st Sat. in Oct. – last Sat. in Oct.
 - (ii) 2 deer per day, either-sex. Hogs no limit.

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- (b) Special Gun Deer Hunts for Youth
 - (i) Hunters selected by drawing.
 - (ii) 1 deer per day, either-sex. Hogs no limit.
- (c) Still Hog Hunts
 - (i) Archery only.
 - (ii) 1st Sat. in Mar. – last Sat in Mar. (impoundments only)
 - (iii) No limit. No live hogs removed from WMA.
- (d) Hog Hunts with Dogs
 - (i) Mon. following the last Sat. in Mar. through the following Sat. (impoundments only)
 - (ii) No limit.
 - (iii) Handguns only, limit 4 bay or catch dogs per party.
 - (iv) No live hogs removed from WMA.

12. Cartwheel Bay Heritage Preserve WMA

- (a) Total 3 deer for all hunts combined. Hogs no limit. No dogs. No hunting from or on roads.
- (b) Archery Deer Hunts.
 - (i) Sept. 15 – 1st Sat. in Oct.
 - (1) 1 deer per day, buck only.
 - (ii) 2nd Mon. in Oct. – 1st Sat. in Nov.
 - (1) 1 deer per day, either-sex
- (c) Small Game (no open season on fox squirrels).
 - (i) No small game hunting during scheduled deer hunting periods.
 - (ii) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 5 seasons apply.
 - (iii) Game Zone 5 bag limits.

13. Lewis Ocean Bay Heritage Preserve WMA

- (a) Still hunting only, no deer dogs, no buckshot. Hunting from horseback is prohibited. All deer hunters must sign in and sign out daily and record harvest at the kiosk.
- (b) Archery Deer Hunts
 - (i) 1st Mon. – Sat. on or after Sept. 15, 1st Mon. – Sat. in Oct., 2nd Mon. – Sat. in Oct., 3rd Mon. – Sat. in Oct.
 - (ii) 1 deer per day, either-sex.
- (c) Archery and Muzzleloader Deer Hunts
 - (i) 4th Mon. in Oct. – following Sat., 2nd Mon. – Sat. in Nov.
 - (ii) 1 deer per day, either-sex.
- (d) Still Gun Hunts for Deer
 - (i) Fri. after Thanksgiving – last day of Nov., Dec. 16 – 31.
 - (ii) 1 deer per day, buck only.
- (e) Small Game (no fox squirrels).
 - (i) Jan. 1 – Mar. 1.
 - (ii) Game Zone 5 bag limits.

14. Little Pee Dee Complex WMA

- (a) Includes Little Pee Dee River HP, Tilghman HP, Dargan HP and Ward HP in Horry and Marion Counties. This also includes the Upper Gunters Island and Huggins tracts in Horry Co. which are part of Dargan HP. Still hunting only, no deer dogs, no buckshot, no hunting from watercraft. Hogs may be harvested during any scheduled hunt only with weapons allowed for the current open season.
- (b) Total of 3 deer for all hunts and hunt periods are combined. Hogs no limit.
- (c) Archery Deer Hunts
 - (i) Sept. 15 – last Sat. in Sept.
 - (1) 1 deer per day, buck only
 - (ii) Oct. 1 - 3rd Sat. in Oct., Mon. after Dec. 15 – Jan. 1.
 - (1) 1 deer per day, either-sex
- (d) Archery and Muzzleloader Deer Hunts
 - (i) 4th Mon. in Oct. – the following Sat.
 - (1) 1 deer per day, buck only

- (ii) 1st Mon. in Nov. – the following Sat.
 - (1) 1 deer per day, either-sex
- (e) Still Gun Hunts for Deer
 - (i) 2nd Mon. in Nov. – 4th Sat. in Nov.
 - (ii) 1 deer per day, buck only
- (f) Still Hog Hunts (no dogs)
 - (i) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.
 - (ii) Mar. 1 – 20
 - (iii) No limit.
- (g) Hog Hunts with Dogs
 - (i) Mar. 21 – Fri. before the last Sat. in Mar.
 - (ii) No more than 4 bay or catch dogs per party.
 - (iii) No live hogs removed from WMA.
 - (iv) Handguns only. Buckshot and rimfire firearms not permitted.
- (h) Raccoon
 - (i) Sept. 15 – Mar. 1
 - (ii) Limit 3 per party per night.
- (i) Small Game (no fox squirrels)
 - (i) Thanksgiving Day – Mar. 1
 - (ii) Game Zone 5 bag limits.

15. Waccamaw River Heritage Preserve WMA

- (a) Still hunting only, no deer dogs, no buckshot.
- (b) Archery Deer Hunts
 - (i) 2nd Mon. – Sat. in Oct., 3rd Mon. – Sat. in Oct.
 - (ii) 1 deer per day, either-sex.
- (c) Archery and Muzzleloader Deer Hunts
 - (i) 4th Mon. – Sat. in Oct., 1st Mon. – Sat. in Nov.
 - (ii) 1 deer per day, either-sex.
- (d) Still Gun Hunts for Deer
 - (i) 2nd Mon. in Nov. – 4th Sat. in Nov.
 - (ii) 1 deer per day, buck only.
- (e) Still Hog Hunts (no dogs)
 - (i) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.
 - (ii) Mar. 1 – 20
 - (iii) No limit.
- (f) Hog Hunts with Dogs
 - (i) Mar. 21- Fri. before the last Sat. in Mar.
 - (ii) No more than 4 bay or catch dogs per party.
 - (iii) No live hogs removed from WMA.
 - (iv) Handguns only. Buckshot and rimfire firearms not permitted.
- (g) Raccoon
 - (i) 1st Wed. in Dec. – last Wed. in Feb. Wed. nights only.
 - (ii) Limit 3 per party per night.
- (h) Small Game (Gray squirrel and woodcock only, no fox squirrels).
 - (i) Thanksgiving Day – Mar. 1.
 - (ii) Game Zone 5 bag limits.
 - (iii) Woodcock during Federal Season and Federal limits.

F. Game Zone 6

1. Francis Marion National Forest

- (a) During still gun hunts for deer, there shall be no hunting or shooting from, on or across any road open to vehicle traffic. No buckshot on still gun hunts. During deer hunts when dogs are used, buckshot only is

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permitted. On either-sex hunts with dogs, all deer must be checked in by one hour after legal sunset. On all still gun and muzzleloader either-sex hunts for all units, all does must be tagged with an Individual Antlerless Deer Tag except when harvested on county-wide either-sex days. Individual Antlerless Deer Tags are valid on days not designated as either-sex on or after Oct. 1 for still hunting only. Tibwin Special Use Area (in Wambaw) is closed to hunting except for Special hunts. On youth deer hunts, only youths 17 and younger may carry a gun and must be accompanied by an adult 21 years old or older. Hogs may be harvested during any scheduled hunt. No fox or coyote hunting with dogs on the Francis Marion.

(b) Total of 4 deer for all gun and muzzleloader hunts on the Francis Marion.

(c) Still Hog Hunts (no dogs)

(i) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.

(ii) Mon. after 1st Sat. in Mar. – Mar. 20.

(iii) No limit.

(d) Hellhole WMA

(i) Archery Deer Hunts

(1) Sept. 1 – Oct. 31

(2) 2 deer per day, either-sex Sept. 15 – Oct. 31, hogs no limit.

(ii) Still Gun Hunts for Deer

(1) Nov. 1 – Jan. 1 except during scheduled dog drive hunts.

(2) 2 deer per day, either-sex, hogs no limit.

(iii) Deer Hunts with Dogs (shotguns only)

(1) 1st Sat. in Nov., 1st Sat. in Dec., 2 deer per day, buck only, hogs no limit.

(iv) Youth Only Deer Hunt with Dogs

(1) Sat. following the 2-day Wambaw buck only hunt in Nov.

(2) 2 deer per day, either-sex, hogs no limit.

(3) Requirements for youth are the same as the statewide youth deer hunt day.

(v) Hog Hunts with Dogs

(1) Every other Fri. and Sat. in Feb. beginning the 2nd Fri. in Feb.

(2) No more than 4 bay or catch dogs per party.

(3) No still or stalk hunting.

(4) One shotgun per party, buck shot only. Pistols allowed.

(5) Hog hunters must have a hunting license and WMA Permit.

(6) Hogs may not be transported alive.

(7) Hunting allowed from legal sunrise to legal sunset.

(vi) Small Game (no open season for fox hunting)

(1) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply.

(2) Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.

(3) Game Zone 6 bag limits except quail 8 per day.

(e) Waterhorn WMA

(i) Archery Deer Hunts

(1) Sept. 1 – 30

(2) 2 deer per day, either-sex Sept. 15 – 30, hogs no limit.

(ii) Muzzleloader Hunts for Deer

(1) Open last full week in Oct. and lasting for 14 days.

(2) 2 deer per day, either-sex, hogs no limit.

(iii) Still Gun Hunts for Deer

(1) 1st and 2nd Fri. and Sat. in Oct., 2nd and last Fri. and Sat. in Nov.

(a) 2 deer per day, buck only, hogs no limit.

(2) 1st full week in Dec., Dec. 26 – Jan. 1.

(a) 2 deer per day, either-sex, hogs no limit.

(iv) Hog Hunts with Dogs

(1) Every other Fri. and Sat. in Feb. beginning the 1st Fri. in Feb. and ending on the 1st Sat. in Mar.

- (2) No more than 4 bay or catch dogs per party.
- (3) No still or stalk hunting.
- (4) One shotgun per party, buck shot only. Pistols allowed.
- (5) Hog hunters must have a hunting license and WMA Permit.
- (6) Hogs may not be transported alive.
- (7) Hunting allowed from legal sunrise to legal sunset.
- (v) Small Game (no open season for fox hunting)
 - (1) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply.
 - (2) Dogs allowed during small game gun season only. Closed to small game and waterfowl hunting during scheduled deer hunt periods.
 - (3) Game Zone 6 bag limits except quail 8 per day.

(f) Wambaw WMA

- (i) Archery Deer Hunts
 - (1) Sept. 1 – 30
 - (2) 2 deer per day, either-sex Sept. 15 – 30, hogs no limit.
- (ii) Still Gun Hunts for Deer
 - (1) Oct. 1 – Jan. 1 except during scheduled dog drive hunts.
 - (2) 2 deer per day, hogs no limit.
 - (3) Still gun hunts only East of Hwy 17. Rifles only.
- (iii) Deer Hunts with Dogs (shotguns only)
 - (1) Fri. in Sept. before the last Sat. Northampton dog hunt, Wed. and Thurs. before the 3rd Sat. in Nov. and 2nd Sat. in Oct., 2 hunting days after Dec. 25.
 - (a) 2 deer per day, buck only, hogs no limit.
 - (2) 2nd Sat. in Dec.
 - (a) 2 deer per day, either-sex, hogs no limit.
 - (b) All deer must be checked in at Awendaw Check Station on Hwy 17, Honey Hill Lookout Tower, P&C Grocery, Alvin One Stop or Kangaroo in Jamestown.
- (iv) Youth Only Deer Hunt with Dogs
 - (1) 4th Sat. in Oct.
 - (2) 2 deer per day, either-sex, hogs no limit.
 - (3) Requirements for youth are the same as the statewide youth deer hunt day.
- (v) Seewee Special Use Area
 - (1) Archery (no dogs)
 - (2) Sept. 1 – Jan. 1
 - (3) 2 deer per day, buck only except either-sex Sept. 15 – Jan. 1.
- (vi) Hog Hunts with Dogs
 - (1) Every other Fri. and Sat. beginning with the 1st Fri. in Feb. and ending on 1st Sat. in Mar.
 - (2) No more than 4 bay or catch dogs per party.
 - (3) No still or stalk hunting.
 - (4) One shotgun per party, buck shot only. Pistols allowed.
 - (5) Hog hunters must have a hunting license and WMA Permit.
 - (6) Hogs may not be transported alive.
 - (7) Hunting allowed from legal sunrise to legal sunset.
- (vii) Small Game (no open season for fox hunting)
 - (1) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply.
 - (2) Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.
 - (3) Game Zone 6 bag limits except quail 8 per day.

(g) Northampton WMA

- (i) Archery Deer Hunts
 - (1) Sept. 1 – 30
 - (2) 2 deer per day, either-sex Sept. 15 – 30, hogs no limit.

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(ii) Still Gun Hunts for Deer

- (1) Oct. 1 – Jan. 1 except during scheduled dog drive hunts.
- (2) 2 deer per day, hogs no limit.

(iii) Deer Hunts with Dogs (shotguns only)

(1) Last Sat. in Sept., Wed. and Thurs. before the 2nd Sat. in Oct., Fri. before the 4th Sat. in Nov., 3rd hunting day after Dec. 25.

(a) 2 deer per day, buck only, hogs no limit.

(2) 2nd Sat. in Dec.

(a) 2 deer per day, either-sex, hogs no limit.

(b) All deer must be checked in at P&C Grocery, Kangaroo in Jamestown, Awendaw check station on Hwy 17, Alvin One Stop or Honey Hill Lookout Tower.

(iv) Youth Only Deer Hunt with Dogs

(1) Sat. of the statewide youth deer hunt day in Jan.

(2) 2 deer per day, either-sex, hogs no limit.

(3) Requirements for youth are the same as the statewide youth deer hunt day.

(v) Hog Hunts with Dogs

(1) Every other Fri. and Sat. beginning with the 1st Fri. in Feb. and ending on 1st Sat. in Mar.

(2) No more than 4 bay or catch dogs per party.

(3) No still or stalk hunting.

(4) One shotgun per party, buck shot only. Pistols allowed.

(5) Hog hunters must have a hunting license and WMA Permit.

(6) Hogs may not be transported alive.

(7) Hunting allowed from legal sunrise to legal sunset.

(vi) Small Game (no open season for fox hunting)

(1) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply.

(2) Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.

(3) Game Zone 6 bag limits except quail 8 per day.

(h) Santee WMA

(i) Archery Deer Hunts

(1) Sept. 1 – 30

(2) 2 deer per day, either-sex Sept. 15 – 30, hogs no limit.

(ii) Still Gun Hunts for Deer

(1) Oct. 1 – Jan. 1 except during scheduled dog drive hunts.

(2) 2 deer per day, hogs no limit.

(iii) Deer Hunts with Dogs (shotguns only)

(1) 2nd Fri. and Sat. in Sept., Wed. and Thurs. before the 4th Sat. in Oct., 1st Fri. in Dec.

(a) 2 deer per day, buck only, hogs no limit.

(2) 2nd Sat. in Dec.

(a) 2 deer per day, either-sex, hogs no limit.

(b) All deer must be checked in at P&C Grocery, Kangaroo in Jamestown, Awendaw check station on Hwy 17, Alvin One Stop or Honey Hill Lookout Tower.

(iv) Youth Only Deer Hunt with Dogs

(1) 1st Sat. in Oct.

(2) 2 deer per day, either-sex, hogs no limit.

(3) Requirements for youth are the same as the statewide youth deer hunt day.

(v) Hog Hunts with Dogs

(1) Every other Fri. and Sat. in Feb. beginning with the 2nd Fri. in Feb.

(2) No more than 4 bay or catch dogs per party.

(3) No still or stalk hunting.

(4) One shotgun per party, buck shot only. Pistols allowed.

(5) Hog hunters must have a hunting license and WMA Permit.

(6) Hogs may not be transported alive.

- (7) Hunting allowed from legal sunrise to legal sunset.
- (vi) Small Game (no open season for fox hunting)
 - (1) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply.
 - (2) Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.
 - (3) Game Zone 6 bag limits except quail 8 per day.

2. Moultrie

- (a) Total of 8 deer per season.
- (b) No hunting or shooting within fifty feet of the center of any road during gun hunts for deer except for SCDNR draw youth hunts. Hogs may be harvested during any scheduled hunt, no limit.

(c) Bluefield

- (i) Open only to youth 17 years of age or younger who must be accompanied by an adult at least 21 years of age. Youth hunters must carry a firearm and hunt. Adults with youth are allowed to carry a weapon and hunt.
 - (ii) Still Gun Hunts for Deer (no buckshot)
 - (1) Aug. 15 – Jan. 1, Wed. and Sat. only.
 - (2) 2 deer per day, buck only except either-sex Wed. and Sat., Sept. 15 – Jan. 1.
 - (iii) Small Game (no open season on fox squirrels)
 - (1) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply.
 - (2) Game Zone 6 bag limits except quail 8 per day.

(d) Greenfield

- (i) Still Gun Hunts for Deer (no buckshot)
 - (1) Nov. 1 – Jan. 1.
 - (2) 2 deer per day, buck only except either-sex 1st Thurs. – Sat. in the season and beginning the last full week of the season – Jan. 1.
- (ii) Small Game (no open season on fox squirrels)
 - (1) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply.
 - (2) Game Zone 6 bag limits except quail 8 per day.

(e) Hall WMA

- (i) Archery Deer Hunts (no dogs)
 - (1) Sept. 1 – Jan. 1
 - (2) 2 deer per day, buck only except either-sex Sept. 15 – Jan. 1.
- (ii) Small Game (shotguns only)
 - (1) Jan. 2 – Mar. 1
 - (2) Game Zone 6 limits except quail 8 per day.

(f) North Dike WMA

- (i) Still Gun Hunts for Deer (no buckshot, no dogs)
- (ii) 1st Fri. after Aug. 15 – last Sat. in Oct.
- (iii) 2 deer per day, buck only except either-sex Oct. 1 – last Sat. in Oct.
- (iv) Individual Antlerless Deer Tags valid on days not designated as either-sex after Sept. 15.
- (v) Small Game (no open season on fox squirrels)
 - (1) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply.
 - (2) Game Zone 6 bag limits except quail 8 per day.
 - (3) Closed to small game hunting Wed. and Fri. during Nov. and Dec.
 - (4) Sandy Beach Waterfowl Area open for raccoon hunting Feb. 1 – Mar. 1.

(g) Porcher WMA

- (i) Archery Deer Hunts (no dogs)
 - (1) Sept. 1 – Jan. 1.
 - (2) 2 deer per day, buck only except either-sex Sept. 15 – Jan. 1.
- (ii) Small Game (no open season on fox squirrels) shotguns only
 - (1) Jan. 2 – Mar. 1
 - (2) Game Zone 6 bag limits except quail 8 per day.

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(h) Cross Station Site

- (i) Special Gun Hunts for youth and women
 - (1) No open season except hunters selected by drawing.
 - (2) 1 deer per day, either-sex

3. Santee Cooper WMA

(a) Data cards required for hunter access. Completed data cards must be returned daily upon leaving. Hunters limited to two deer/tree stands which must contain a label with the hunter's name and address. No stands may be placed on Santee Cooper WMA prior to Sept. 15.

(b) Total of 8 deer per season for all hunts combined, no more than 2 bucks.

(c) Quality Deer Management Area – Only antlerless deer, spike bucks (2 points) and bucks with a minimum 4 points on one side or a 12-inch minimum antler spread. A point must be at least one inch measured from the nearest edge of main beam to the top of the point. Campground is open during scheduled deer hunts only.

(d) Archery Deer Hunts

- (i) 1st full week in Oct.
- (ii) 2 deer per day, either-sex, no more than 1 buck per day.

(e) Archery and Muzzleloader Deer Hunts

- (i) 2nd full week in Oct., 1st full week in Nov., 2nd full week in Dec.
- (ii) 2 deer per day, either-sex, no more than 1 buck per day.

(f) Raccoon

- (i) 1st Mon. after the closing of the last deer hunt – Mar. 1
- (ii) Fri. and Sat. only.
- (iii) Game Zone 6 bag limits.

(g) Hogs and Coyotes

(i) Feral hogs and coyotes may be taken during any scheduled hunts only with weapons allowed for current open season. No hog hunting with dogs except during special designated hog hunts with dogs. No limit on hogs or coyotes.

(h) Small Game

- (i) 1st Mon. after the closing of the last deer hunt – Mar. 1.
- (ii) Game Zone 6 bag limits except quail 8 per day.

4. Webb WMA

(a) Data cards are required for hunter access. Completed data cards must be returned daily upon leaving.

(b) Still Gun Hunts for Deer (no dogs)

- (i) Hunters selected by drawing.
- (ii) 2 deer, either-sex but only 1 buck
- (iii) Bucks must have a minimum 4 points on one side or a 12-inch minimum antler spread.
- (iv) 1st firearm draw hunt of each season is antlerless only. No antlered bucks may be harvested.

(c) Still Hog Hunts (no dogs, no stalking or man drives)

(i) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.

- (ii) 4th Thurs. – Sat. in Feb., 2nd and 3rd Thurs. – Sat. in May, 1st Thurs. – Sat. in Sept.
- (iii) No limit.

(d) Hog Hunts with Dogs

- (i) 1st Thurs. – Sat. in Mar., 2nd Thurs. – Sat. in Mar., 2nd Thurs. – Sat. in Sept.
- (ii) No more than 4 bay or catch dogs per party.
- (iii) No live hogs removed from WMA.
- (iv) Handguns only.

(v) Hunters must sign register upon entering and leaving the Webb WMA.

(vi) Hog hunters are permitted to camp at Bluff Lake on nights prior to and during scheduled hog hunts only.

(e) Quail Hunts

- (i) 2nd and 4th Wed. in Jan., 2nd and 4th Sat. in Jan., 1st and 3rd Sat. in Feb., 1st and 3rd Wed. in Feb.
- (ii) Limit 8 per day

- (iii) Shooting hours end 30 minutes prior to official sunset.
- (f) Other Small Game (no fox squirrels)
 - (i) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply.
 - (ii) No hunting on half-days scheduled for deer hunting.
 - (iii) Game Zone 6 bag limits.
- (g) Dove Hunting
 - (i) Designated public dove field only
 - (ii) Days published annually.
 - (iii) Federal bag limits.

5. Bear Island WMA

- (a) All hunters must sign in and out at the Bear Island Office. Hunting in designated areas only. Hogs may be harvested during any scheduled hunt.
- (b) Archery Deer Hunts
 - (i) 1st Fri. in Oct. – 2nd Sat. in Oct.
 - (ii) 3 deer, either-sex. Hogs no limit.
- (c) Still Gun Hunts for Deer (no dogs, rifles only)
 - (i) Hunters selected by drawing.
 - (ii) 3 deer, either-sex but only 1 buck
 - (iii) Bucks must have a minimum 4 points on one side or a 12-inch minimum antler spread.
- (d) Hog Hunts with Dogs
 - (i) 1st Thurs. – Sat. in Mar.
 - (ii) No more than 4 bay or catch dogs per party.
 - (iii) No live hogs removed from WMA.
 - (iv) Handguns only.
 - (v) All hogs harvested must be checked at the check station.
- (e) Alligator Hunts (Bear Island East and West Units only)
 - (i) Hunters selected by drawing only. Limited season with restricted access.
 - (ii) Limit and size restrictions as prescribed.
- (f) Raccoon and Opossum
 - (i) Beginning the Wed. after Fed. Youth Waterfowl Day – Mar. 15, Wed. and Fri. nights only.
 - (ii) Game Zone 6 bag limits.
- (g) Quail Hunts
 - (i) Tues. only, beginning the Tue. after Fed. Youth Waterfowl Day – Mar. 1.
 - (ii) Game Zone 6 bag limits.
- (h) Other Small Game
 - (i) Wed. after Fed. Youth Waterfowl Day – Mar. 1., Wed. and Sat. only.
 - (ii) Game Zone 6 bag limits.

6. Donnelley WMA

- (a) All hunters must sign in and out at the check station. Hunting in designated areas only. Scouting season for archery only on the day before the season opens. Hogs can be harvested during any scheduled hunt only with weapons allowed for the current open season.
- (b) Archery Deer Hunts
 - (i) Oct. 1 – Oct. 5, Nov. 1 – Nov. 5, Dec. 1 – Dec. 5.
 - (ii) 4 deer, either-sex except no more than 1 buck. Hogs no limit.
 - (iii) Bucks must have a minimum 4 points on one side or a 12-inch minimum antler spread.
- (c) Still Gun Hunts for Deer (no dogs, rifles only)
 - (i) Hunters selected by drawing or designated special antlerless only hunts.
 - (ii) 3 deer, either-sex but only 1 buck
 - (iii) Bucks must have a minimum 4 points on one side or a 12-inch minimum antler spread except antlerless only during special antlerless only hunts.
- (d) Hog Hunts with Dogs
 - (i) 1st Thurs. – Sat. in Mar.
 - (ii) No more than 4 bay or catch dogs per party.

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- (iii) No live hogs removed from WMA.
- (iv) Handguns only.
- (v) All hogs harvested must be checked at the check station.
- (e) Raccoon and Opossum
 - (i) Dec. 6 – Mar. 15, Tues. and Fri. nights
 - (ii) Raccoon Game Zone 6 bag limits, opossum no limit.
- (f) Small Game (no fox squirrels)
 - (i) Dec. 6 – Mar. 1, Wed. and Sat.
 - (ii) Game Zone 6 bag limits.

7. Hatchery WMA

- (a) Archery Deer Hunts
 - (i) Sept. 1 – 2nd Sat. in Nov.
 - (ii) Total 8 deer per season.
 - (iii) 2 per day, buck only except either-sex Sept. 15 – 2nd Sat. in Nov.

8. Bonneau Ferry WMA

(a) No camping allowed. No person hunting on Bonneau Ferry WMA may possess, consume, or be under the influence of intoxicants including beer, wine, liquor or illegal drugs. All terrain vehicles prohibited. Hunting access by boat is prohibited. For hunting, Adult/youth Side A is open only to youth 17 years old or younger who must be accompanied by only one adult 21 years of age or older. Youth hunters must carry a firearm and hunt. Adults with youth hunters may also carry a firearm and hunt. For deer and small game hunting Sides A and B will alternate each year. All hunters must sign in and sign out upon entering or leaving. All deer must be checked out at the main entrance. Closed to public access one hour after sunset until one hour before sunrise except for special hunts regulated by DNR. Hunters may not enter WMA prior to 5:00 AM on designated hunts. All impoundments and adjacent posted buffers are closed to all public access Nov. 1 – Mar. 1 except for special draw deer hunts and waterfowl hunts regulated by DNR during the regular waterfowl season. No fox or bobcat hunting. Hogs may be harvested during any scheduled hunt.

(b) Limit of 2 deer per day, total 8 deer per season for all hunts, no more than 2 antlered deer total. Hogs no limit.

(c) Side A (Adult/Youth only)

(i) Still Gun Hunts for Deer

(1) Sept. 15 – Jan. 1, Wed., Fri. and Sat., entire week of Thanksgiving and 5 days before Christmas until Jan. 1.

(d) Side B

(i) Archery Deer Hunts

(1) Sept. 1 – 14 buck only

(2) Sept. 15 – 20 either-sex

(3) 2nd Mon. in Nov. until Nov. 30 either-sex

(e) Still Gun Hunts for Deer

(i) No open season except for hunters selected by computer drawing.

(ii) Total 3 deer, either-sex except only 1 buck. Hogs no limit.

(iii) Draw deer hunts are for two and one half days (afternoon on the first day and 2 full days).

(iv) Hunt periods begin in Sept. and continue until early Dec.

(v) Hunters are required to have permit in possession and must sign in and out (Name, permit # and deer killed each day). Hunted areas are closed to general public access during scheduled deer, turkey and waterfowl hunts.

(f) Raccoon and Opossum

(i) Jan. 2 – Mar. 1, Tues. and Sat. nights only.

(ii) Game Zone 6 bag limits.

(g) Quail (Side A) Adult/youth only

(i) Open every other Sat. beginning Feb. 1 – Mar. 1.

(ii) Bag limit 8 per party.

(h) Quail (Side B)

(i) Open every other Sat. beginning Feb. 1 – Mar. 1.

- (ii) Bag limit 8 per party.
- (iii) Shotguns must be plugged to hold no more than 3 shells.
- (i) Other Small Game (no fox squirrels or fox)
 - (i) Jan. 2 – Mar. 1
 - (ii) Game Zone 6 bag limits.
 - (iii) Dogs allowed during gun seasons only.
- (j) Bonneau Ferry Fishing Regulations
 - (i) Open to fishing on Wed., Sat. and Sun. from Mar. 2 – Oct. 31 during daylight hours only.
 - (ii) Adult/youth fishing only. Each youth (17 years and under) must be accompanied by no more than two adults 18 years of age or older.
 - (iii) The youth must actively fish.
 - (iv) Fishing is not allowed during scheduled deer and turkey hunts.
 - (v) Only electric motors may be used.
 - (vi) Creel limits per person per day are: largemouth bass – 2, panfish (bluegill, redear, crappie, pumpkinseed, redbreast) – 10, species not listed – no limit. Grass carp must be released alive immediately.

9. Santee Coastal Reserve WMA

- (a) Deer hunters must sign in and sign out and complete a data card on harvested animals. Hogs may be harvested during any scheduled hunt.
- (b) Archery Deer Hunts (no dogs)
 - (i) 2nd Sat. in Oct. – last Sat. in Nov.
 - (ii) 2 deer per day, either-sex. Hogs no limit.
 - (iii) Hunting on mainland only.
 - (iv) No possession of handguns or sidearms during archery only hunts.
- (c) Archery and Muzzleloader Hunts for Deer
 - (i) 1st Thur. – Sat. in Dec.
 - (ii) 1 deer per day, either-sex. Hogs no limit.
- (d) Hog Hunts with Dogs
 - (i) 2nd and 4th Thurs. in Feb., 3rd and 4th Fri. in Mar.
 - (ii) No more than 4 bay or catch dogs per party.
 - (iii) No live hogs removed from WMA.
 - (iv) Handguns only.
 - (v) All hogs harvested must be checked at the check station.
- (e) Alligator Hunts
 - (i) Hunters selected by drawing only. Limited season with restricted access.
 - (ii) Limit and size restrictions as prescribed.
- (f) Raccoon and opossum
 - (i) Tues. and Fri. nights, Tues. following the 1st Thurs. – Sat. in Dec. – Mar. 1.
 - (ii) Game Zone 6 bag limits.
- (g) Small Game (no fox squirrels)
 - (i) Wed. and Sat. only, Wed. following the 1st Thur. – Sat. in Dec. – Mar. 1.

10. Dugannon Hertiage Preserve WMA

- (a) Archery Deer Hunts (no dogs)
 - (i) Oct. 15 – Dec. 1
 - (ii) Total 8 deer per season, 2 deer per day, either-sex. Hogs no limit.

11. Edisto WMA

- (a) Hogs may be harvested during any scheduled hunt. No limit on hogs.
- (b) Archery Deer Hunts
 - (i) Sept. 15 – 30.
 - (ii) 1 deer per day, either-sex.
- (c) Archery and Muzzleloader Deer Hunts
 - (i) Mon. - Sat. for two weeks beginning the 1st full week in Oct.
 - (ii) 1 deer per day, either-sex.

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- (d) Still Gun Hunts for Deer (no dogs, no buckshot)
 - (i) Mon. following the closing of muzzleloader season – Jan. 1.
 - (ii) 1 deer per day, bucks only except either-sex on each Fri. and Sat. in Nov.
- (e) Small Game
 - (i) Jan. 2 - Mar. 1.
 - (ii) Game Zone 6 bag limits except quail 8 per day.

12. Canal WMA

- (a) Quail Hunts
 - (i) 1st Wed. after opening day of quail Game Zone 6 quail season and every other Wed. and Sat. thereafter until Mar. 1.
 - (ii) Bag limit 8 per day.

13. Palachucola WMA

- (a) Data cards are required for hunter access. Completed data cards must be returned daily upon leaving WMA.
- (b) Bucks must have a minimum 4 points on one side or a 12-inch minimum antler spread.
- (c) Archery Deer Hunts (no dogs)
 - (i) Sixteen hunting days beginning the last Wed. in Sept., 3rd Thurs. – Sat. in Dec.
 - (ii) 3 deer, either-sex except only 1 buck.
- (d) Still Gun Hunts for Deer (no dogs)
 - (i) No open season except for hunters selected by computer drawing.
 - (ii) 3 deer, either-sex except only 1 buck.
- (e) Still Hog Hunts (no dogs, no stalking or man drives)
 - (i) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.
 - (ii) 4th Thurs. – Sat. in Feb., 2nd and 3rd Thurs. – Sat. in May, 1st Thurs. – Sat. in Sept.
 - (iii) No limit.
- (f) Hog Hunts with Dogs
 - (i) 1st Thurs. – Sat. in Mar., 2nd Thurs. – Sat. in Mar., 2nd Thurs. – Sat. in Sept.
 - (ii) No more than 4 bay or catch dogs per party.
 - (iii) No live hogs removed from WMA.
 - (iv) Handguns only.
 - (v) Hunters must sign register upon entering and leaving the WMA.
- (g) Quail Hunts
 - (i) 2nd and 4th Wed. in Jan., 2nd and 4th Sat. in Jan., 1st and 3rd Sat. in Feb., 1st and 3rd Wed. in Feb.
 - (ii) Bag limit 8 per day.
 - (iii) Shooting hours end 30 minutes prior to official sunset.
- (h) Other Small Game (no fox squirrels)
 - (i) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply.
 - (ii) Game Zone 6 bag limits.
 - (iii) No small game hunting during scheduled deer hunts.

14. St. Helena Sound Heritage Preserve WMA

- (a) Deer hunting by permit only obtained at McKenzie Field Station. Camping by special permit only and on Otter Island only.
- (b) Otter Island Archery Deer Hunts (no dogs)
 - (i) Nov. 1 – 30
 - (ii) 2 deer per season, 1 deer per day. Hogs no limit.
- (c) Otter Island Raccoon Hunts
 - (i) Sat. during Jan. and Feb.
 - (i) Game Zone 6 limits.
- (d) Ashe, Beet, Warren, Big and South Williman Archery Deer Hunts (no dogs)
 - (i) Oct. 1 – Jan. 1
 - (ii) 3 deer per season, 1 deer per day, either-sex. Hogs no limit.

15. Waccamaw River Heritage Preserve WMA

- (a) Still hunting only, no deer dogs, no buckshot, no hunting from vehicles. Total 2 deer per season. Hogs no limit.
- (b) Archery Deer Hunts
 - (i) 2nd Mon. – Sat. in Oct., 3rd Mon. – Sat. in Oct.
 - (ii) 1 deer per day, either-sex
- (c) Archery and Muzzleloader Hunts for Deer
 - (i) 4th Mon. – Sat. in Oct., 1st Mon. – Sat. in Nov.
 - (ii) 1 deer per day, either-sex
- (d) Still Gun Hunts for Deer (no dogs)
 - (i) 2nd Mon. in Nov. – 4th Sat. in Nov.
 - (ii) 1 deer per day, buck only
- (e) Still Hog Hunts (no dogs)
 - (i) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.
 - (ii) Mar. 1 - 20
 - (iii) No limit. No bay or catch dogs.
- (f) Hog Hunts with Dogs
 - (i) Mar. 21 – Fri. before the last Sat. in Mar.
 - (ii) No more than 4 bay or catch dogs per party.
 - (iii) No live hogs removed from WMA.
 - (iv) Handguns only.
- (g) Raccoon Hunts
 - (i) 1st Wed. in Dec. – last Wed. in Feb. Wed. nights only.
 - (ii) 3 per party per night.
- (h) Small Game
 - (i) Gray squirrel
 - (1) Thanksgiving Day – Mar. 1
 - (2) Game Zone 6 bag limits.
 - (ii) Woodcock
 - (1) Federal seasons
 - (2) Federal bag limits

16. Tillman Sand Ridge Heritage Preserve WMA

- (a) Archery Deer Hunts
 - (i) 14 hunting days beginning the last Fri. in Oct.
 - (ii) 2 deer, either-sex
- (b) Archery and Muzzleloader Hunts for Deer
 - (i) 8 hunting days beginning the 2nd Fri. in Dec.
 - (ii) 2 deer, buck only except either-sex on Fri. and Sat.
- (c) Small Game (no fox squirrels)
 - (i) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply.
 - (ii) Game Zone 6 bag limits.
 - (iii) No small game hunting during scheduled deer hunt periods.

17. Victoria Bluff Heritage Preserve WMA

- (a) Archery Deer Hunts (no dogs)
 - (i) Three hunting day periods beginning the 1st Thurs. in Oct., 2nd Thurs. in Oct., the 3rd Thurs. in Oct., the 4th Thurs. in Oct., eight hunting days beginning the 1st Fri. in Nov. and eight hunting days beginning the 2nd Fri. after Thanksgiving.
 - (ii) 3 deer per hunt period, either-sex
- (b) Small Game
 - (i) No hunting before Oct. 15 or after Feb. 1, otherwise Game Zone 6 seasons.
 - (ii) Game Zone 6 bag limits.
 - (iii) No small game hunting during scheduled deer hunt periods.

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(iv) Shotguns only, shot no larger than no. 2.

18. Hamilton Ridge WMA

(a) Quality Deer Management Area – Antlered deer must have at least 4 points on 1 side or a minimum 12-inch antler spread. A point must be at least 1 inch long measured from the nearest edge of main beam to the top of the point. No more than 3 bucks total may be taken during all seasons combined regardless of method. Firearms must be unloaded and cased when not hunting. Scouting and stand placement allowed 1 day prior to hunts. No buckshot. Hogs may be taken only during deer hunts or scheduled hog hunts. All hogs must be killed where taken. Horseback riding by permit only. No ATVs allowed. Data cards are required for hunter access. Completed data cards must be returned daily upon leaving the WMA.

(b) Archery Deer Hunts (no dogs)

(i) 3rd Mon. – Sat. in Sept., 4th Mon. – Sat. in Oct., 1st week in Nov., 2nd Mon. – Sat. in Nov., 2nd Thur. – Sat. in Dec.

(ii) 2 deer per hunt period, either-sex, only 1 buck. Hogs no limit.

(c) Still Gun Hunts for Deer (no dogs)

(i) No open season except hunters selected by computer drawing.

(ii) 3 deer, either-sex but only 1 buck.

(d) Still Hog Hunts (no dogs, no stalking or man drives)

(i) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.

(ii) 4th Thurs. – Sat. in Feb., 2nd and 3rd Thurs. – Sat. in May, 1st Thurs. – Sat. in Sept.

(iii) No limit.

(e) Hog Hunts with Dogs

(i) 1st Thurs. – Sat. in Mar., 2nd Thurs. – Sat. in Mar., 2nd Thurs. – Sat. in Sept.

(ii) No more than 4 bay or catch dogs per party.

(iii) No live hogs removed from WMA.

(iv) Handguns only.

(f) Quail Hunts

(i) 2nd and 4th Wed. in Jan., 2nd and 4th Sat. in Jan., 1st and 3rd Sat. in Feb., 1st and 3rd Wed. in Feb.

(ii) Bag limit 8 per day.

(iii) Shooting hours end 30 minutes prior to official sunset.

(g) Other Small Game (no fox squirrels)

(i) No hunting before Dec. 26 or after Mar. 1; otherwise Game Zone 6 seasons apply.

(ii) Game Zone 6 bag limits.

(iii) No hog hunting during small game hunts.

19. Old Island Heritage Preserve WMA

(a) Archery Deer Hunts (no dogs)

(i) Sept. 15 – Jan. 1.

(ii) Total 2 deer per season, 1 deer per day, either-sex.

20. Botany Bay Plantation WMA

(a) All hunters, fishermen and visitors must obtain and complete a day use pass upon entering the area and follow all instructions on the pass. Botany Bay Plantation WMA is open to public access during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) except during special hunts and events regulated by DNR. Area is closed to general public access during special scheduled hunts. Hunting in designated areas only. Hunting access by boat is prohibited. Fishing in the Jason's Lake complex and all other ponds is adult/youth catch and release only on designated days. For adult/youth fishing, youth must be accompanied by no more than two adults 18 years old or older. Adult may also fish.

(b) Archery Deer Hunts

(i) 1st Mon. after Sept. 15 until the 1st Sat. in Oct., Mon. – Sat. during the week of Thanksgiving, Mon. – Sat. during the week of Christmas.

(ii) Total of 3 deer, either-sex but only 1 buck with a minimum 4 points on one side or a 12" antler spread.

(c) Still Gun Hunts for Deer (no dogs, no buckshot)

(i) No open season except for hunters selected by computer drawing.

(ii) Total 3 deer, either-sex but only 1 buck with a minimum 4 points on one side or a 12" minimum antler spread.

(iii) Draw hunts are for two and one-half days (afternoon on the first day and 2 full days). Hunt periods begin in Sept. and continue into Dec. Hunters are required to have permit in possession and must sign in and sign out (Name, permit # and deer killed each day) at the designated check station. All harvested deer must be checked in at the designated check station.

(d) Raccoon and Opossum

(i) Jan. 2 – Mar. 15 (Wed. – Fri. only)

(ii) Game Zone 6 bag limits

(e) Small Game (no open season for fox squirrels or foxes).

(i) Jan. 2 – Mar. 1 (Wed. and Sat. only)

(ii) Game Zone 6 bag limits except quail 8 per day.

(iii) Dogs allowed during gun seasons only.

21. Congaree Bluffs Heritage Preserve WMA

(a) Still Gun Hunts for Deer (no dogs, no buckshot)

(i) No open season except for hunters selected by drawing.

(ii) Total 2 deer per day, either-sex

(b) Hogs and Coyotes

(i) Feral hogs and coyotes may be taken during any scheduled hunts only with weapons allowed for current open season. No hog hunting with dogs except during special designated hog hunts with dogs. No limit on hogs or coyotes.

GENERAL REGULATIONS

2.1 Except as provided in these regulations, no person may hunt or take wildlife on areas designated by the South Carolina Department of Natural Resources (SCDNR) Wildlife Management Area (WMA) lands.

2.2 Entry only WMA land is done wholly and completely at the risk of the individual. Neither the landowner or the State of South Carolina nor the South Carolina Department of Natural Resources accepts any responsibility for acts, omissions, or activities or conditions on these lands which cause personal injury or property damage.

2.3 Entry onto WMA land constitutes consent to an inspection and search of the person, game bag or creel.

2.4 No person may hunt or take wildlife on WMA land unless an individual is in possession of a valid South Carolina license; a valid WMA permit; an other applicable federal or state permits, stamps or licenses.

2.5 No Sunday hunting is permitted on any WMA lands.

2.6 On all WMA lands, baiting or hunting over a baited area is prohibited. As used in this section, "bait" or "baiting" means the placing, depositing, exposing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat, or other grain or other food stuffs to constitute an attraction, lure, or enticement to, on, or over any area. "Baited area" means an area where bait is directly or indirectly place, deposited, exposed, distributed, or scattered and the area remains a baited area for ten (10) days following the complete removal of all bait. Salt/minerals are not considered bait.

2.7 On WMA lands construction or use of tree stands and temporary climbing devices is prohibited if the tree stand or temporary climbing device is constructed by driving nails, screws or other devices into the tree; or the tree stand or temporary climbing device is constructed by wrapping wire around the tree. Other tree stands and temporary climbing devices are permitted provided they are not permanently affixed or embedded in the tree. All stands and temporary climbing devices must be removed by the end of the deer hunting season.

2.8 On WMA lands any hunter younger than sixteen (16) years of age must be accompanied by an adult (21 years or older) who is validly licensed and holds applicable permits, licenses or stamps for the use of WMA lands. Sight and voice contact must be maintained. This also applies to non-state or non-federally owned leased WMA land in Game Zones 1 and 2 for deer hunting.

2.9 Notwithstanding any other provision of these regulations, the Department may permit special seasons on any day during the regular hunting season.

2.10 No person may release or attempt to release any animal onto WMA lands without approval from the Department.

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2.11 While participating in a hunt on WMAs, no person may possess, consume or be under the influence of intoxicants, including beer, wine, liquor or drugs.

2.12 On WMA lands, during designated statewide youth deer hunt day, still hunting only, two deer either-sex.

2.13 Taking or destroying timber, other forest products or cutting firewood on WMA lands without written permission from the landowner or his agent is prohibited. Users of WMA lands are prohibited from planting, attempting to plant, burning or otherwise attempting to manipulate crops, natural vegetation or openings without written permission from the landowner or his agent.

2.14 On WMA lands, hunting armadillos, coyotes and hogs at night is prohibited. Armadillos and coyotes may be hunted during any open season for game during daylight hours. Weapon(s) used to hunt armadillos and coyotes are limited to the weapon(s) that are allowed for the current open season on WMA.

WEAPONS

3.1 On WMA lands hunters may use any shotgun, rifle, bow and arrow, crossbow or hand gun except that specific weapons may be prohibited on certain hunts. Small game hunters may possess or use shotguns with shot no larger than No. 2 or .22 rimfire or smaller rifles/handguns or primitive muzzle-loading rifles of .40 caliber or smaller. Small game hunters may not possess or use buckshot, slugs or shot larger than No. 2. Blow guns, dart guns or drugged arrows are not permitted. Small game hunters using archery equipment must use small game tips on the arrows (judo points, bludgeon points, etc.).

3.2 For Special Primitive Weapons Seasons, primitive weapons include bow and arrow, crossbow and muzzle-loading shotguns (20 gauge or larger) and rifles (.36 caliber or larger) with open or peep sights or scopes, which use black powder or a black powder substitute that does not contain nitro-cellulose or nitro-glycerin components as the propellant charge. There are no restrictions on ignition systems (e.g. flintstone, percussion cap, shotgun primer, disk, electronic, etc.). During primitive weapons season, no revolving rifles are permitted.

3.3 On WMA lands big game hunters are not allowed to use military or hard-jacketed bullets or .22 or smaller rimfire. Buckshot is prohibited during still hunts for deer or hogs on the Santee Coastal Reserve, Bucksport, Pee Dee Station Site, Lewis Ocean Bay, Great Pee Dee, Crackerneck, Webb Center, Marsh Furniture, Manchester State Forest, Palachucola, Waccamaw River Heritage Preserve, Donnelley, Francis Marion, Moultrie, McBee, Edisto and Bonneau Ferry WMAs.

3.4 On WMAs all firearms transported in vehicles must be unloaded and secured in a weapons case, or in the trunk of a vehicle or in a locked toolbox. On the Francis Marion Hunt Unit during deer hunts with dogs, loaded shotguns may be transported in vehicles. Any shotgun, centerfire rifle or rimfire rifle or pistol with a shell in the chamber or magazine or muzzleloader with a cap on the nipple or flintlock with powder in the flash pan is considered loaded.

3.5 No target practice is permitted on WMA lands except in specifically designated areas.

3.6 On WMA lands during still gun hunts for deer or hogs there shall be no hunting or shooting from, on or across any road open to vehicle traffic. During any deer or hog hunt there shall be no open season for hunting on any designated recreational trail on U.S Forest Service or S.C. Public Service Authority property.

DEER

4.1 On WMA lands with designated check stations, all deer bagged must be checked at a check station. Deer bagged too late for reporting one day must be reported the following day. Unless otherwise specified by the department, only bucks (male deer) may be taken on all WMA lands. Male deer must have antlers visible two (2) inches above the hairline to be legally bagged on "bucks only" hunts. Male deer with visible antlers of less than two (2) inches above the hairline must be taken only on either-sex days or pursuant to permits issued by the department. A point is any projection at least one inch long and longer than wide at some location at least one inch from the tip of the projection. Antler spread is the greatest outside measurement (main beam or points) on a plane perpendicular to the skull. On WMA lands, man drives for deer are permitted between 10:00 a.m. and 2:00 p.m. only, except that no man drives may be conducted on days designated by the department for taking deer of either sex. On WMA lands, drivers participating in man drives are prohibited from carrying

or using weapons. On WMA lands, in Game Zones 1 and 2, man drives will be permitted on the last four (4) scheduled either-sex days. A man drive is defined as an organized hunting technique involving two (2) or more individuals whereby an attempt is made to drive game animals from cover or habitat for the purpose of shooting, killing, or moving such animals toward other hunters.

4.2 Deer either-sex days for gun hunts are as follows:

- (a) Game Zone 1: The first three Sat. in Nov.
- (b) Game Zones 2 – 6: Every Sat. from Oct. 1 to the Sat. after Thanksgiving day inclusive; Sat. in Dec. beginning 23 days after Thanksgiving day; and the last day of the open season.
- (c) In Game Zones 1 and 2 hunters using archery equipment may take either-sex during any open season for deer.
- (d) On special mobility impaired and youth deer hunts sanctioned by the department and during the statewide youth deer hunt day, participants may take antlerless deer, 2 per day.

DOGS

5.1 On all WMA lands, dogs may be used for small game hunting unless otherwise specified.

5.2 On all WMA lands in Game Zones 1 and 2, beagles may not be used for rabbit hunting during still gun hunts for deer or bear. Beagles may be used from the close of the season for deer until the close of the rabbit season. Beagles may be trained for rabbit hunting from September 1 through September 30 (no guns).

5.3 On WMA lands, dogs may be used for hunting foxes, raccoons, bobcats or opossums only between thirty (30) minutes after official sunset and 30 minutes before official sunrise.

5.4 The Department may permit deer hunting with dogs on WMA areas not located in Game Zones 1 and 2. For the purposes of tracking a wounded deer, a hunter may use one dog which is kept on a leash.

5.5 Dogs may be used to hunt bear on WMA lands in Game Zone 1 during the special party dog bear season.

5.6 On WMA lands, dogs may be used to hunt hogs only during special designated hog hunts with dogs.

VEHICLES

6.1 On all WMA lands, no hunter may shoot from a vehicle except that mobility impaired hunters may take game from any stationary motor driven land conveyance or trailer which is operated in compliance with these rules. For purposes of this regulation, mobility impaired means individuals who are permanently confined to a wheelchair, permanently require the use of two crutches, permanently require the use of a walker to walk, or persons with single or double leg amputations. Written confirmation of permanent impairment is required from a physician or qualifying agency.

6.2 On WMA lands, motor driven land conveyances must be operated only on designated roads or trails. Unless otherwise specified, roads or trails which are closed by barricades and/or signs, either permanently or temporarily, are off limits to motor-driven land conveyances.

6.3 A person may not obstruct or cause to be obstructed travel routes on WMA lands.

VISIBLE COLOR CLOTHING

7.1 On all WMA lands during any gun and muzzleloader hunting seasons for deer, bear and hogs, all hunters including small game hunters must wear either a hat, coat, or vest of solid visible international orange, except hunters for dove, turkey, ducks, geese and other hunted migratory birds including crows are exempt from this requirement while hunting for those species.

CAMPING

8.1 Camping is not permitted on WMA lands except in designated camp sites.

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TRAPPING

9.1 Trapping on WMA lands is not permitted.

WATERFOWL & DOVE REGULATIONS

10.1 Unless specially designated by the Department as a Wildlife Management Area for Waterfowl or a Wildlife Management Area for Dove, all Wildlife Management Areas are open during the regular season for hunting and taking of migratory birds except where restricted to special small game seasons within the regular migratory bird framework.

10.2 The Department may designate sections of Wildlife Management Areas and other lands and waters under the control of the Department as Designated Waterfowl Management Areas or Designated Dove Management Areas. All laws and regulations governing Wildlife Management Areas apply to these special areas. In addition, the Department may set special shooting hours, bag limits, and methods of hunting and taking waterfowl and doves on those areas. All State and Federal migratory bird laws and regulations apply. Regulations pertaining to the use of Dove Management Areas will be filed annually.

10.3 On areas where blinds are not provided, only temporary blinds of native vegetation may be constructed and once vacated become available for others or portable blinds which are removed at the conclusion of the hunt may be used.

10.4 On Designated Waterfowl Areas, no species other than waterfowl may be taken during waterfowl hunts. On Designated Dove Management Areas no species other than doves may be taken during dove hunts. Only dove hunting is allowed at Lake Wallace.

10.5 No fishing is permitted in any Category I Designated Waterfowl Area during scheduled waterfowl hunts.

10.6 The Clarks Hill Waterfowl area is closed to hunting except for waterfowl hunting and other special hunts as designated by the SCDNR.

10.7 Santee Cooper WMA is closed to hunting from October 20 until March 1, except for special hunts designated by SCDNR.

10.8 During the 01 Nov.-01 Mar. except for special hunts designated by the Department, Sandy Beach Waterfowl Area is closed to public access and impoundments on Bonneau Ferry WMA are closed to public access.

10.9 Broad River Waterfowl Management Area is closed to public access during the period 01 Nov. – Feb. except for special hunts designated by the Department.

10.10 Impoundments on Bear Island, Donnelly, Samworth, Santee Coastal Reserve and Santee Delta WMAs are closed to all public access during the period Nov. 1 - Feb. 8 except during special hunts designated by the Department. All public access during the period Feb. 1 - Oct. 14 is limited to designated areas. On Bear Island WMA, Mathews' Canal is closed to all hunting from Nov. 1 – Feb. 15 beyond a point 0.8 mile from the confluence of Mathews' Canal with the South Edisto River.

10.11 Potato Creek Hatchery Waterfowl Area is closed to hunting access and fishing during the period one week prior to and two weeks after the Federal waterfowl season except for scheduled waterfowl hunts. All hunters must enter and leave the Potato Creek Hatchery Waterfowl Area through the designated public landing on secondary road 260 and complete a data card and deposit card in receptacle prior to leaving the area. Hunting hours are from 30 minutes before legal sunrise to legal sunset (including the special youth hunt). Hunters may not enter the area prior to 3:00 a.m. on hunt days. No airboats are allowed for hunting or fishing and no hunting from secondary road 260.

10.12 Hunters may not enter Hatchery WMA prior to 3 AM and must leave the area by 1 PM. Each hunter is limited to twenty-five nontoxic shot shells (steel, bismuth/tin, bismuth, tungsten-polymer, tungsten-iron) per hunt and no buckshot allowed. Hunters must enter and leave Hatchery WMA through the Hatchery Landing and accurately complete a data card and deposit card in receptacle prior to leaving the area. No airboats are allowed in the Hatchery WMA for hunting or fishing during the period 15 Nov.-31. Jan. No fishing allowed during scheduled waterfowl hunts.

10.13 On Crackerneck WMA, waterfowl may be hunted only on Fri., Sat. and Thanksgiving Day within the regular migratory bird seasons and no hunting on Dec. 25; Fant's Grove WMA is open AM only on Wednesdays and Saturdays during the regular migratory bird seasons; Palachucola WMA, Tillman Sand Ridge WMA, Hamilton Ridge WMA and Webb WMA are open AM only for waterfowl hunting during the regular migratory bird seasons only on days when small game hunting is allowed.

10.14 Category I Designated Waterfowl Areas include Beaverdam, Bonneau Ferry, Broad River, Clemson, Sandy Beach, Samworth, Santee Coastal Reserve, Santee-Delta, Tibwin, Bear Island, and Donnelley Wildlife Management Areas. Hunting in Category I Designated Waterfowl Areas is by special permit obtained through annual computer drawing.

10.15 Category II Designated Waterfowl Areas include Biedler Impoundment, Carr Creek (bounded by Samworth WMA), Little Carr Creek (bounded by Samworth WMA), Lake Cunningham, Russell Creek, Monticello Reservoir, Parr Reservoir, Duncan Creek, Dunaway, Dungannon, Enoree River, Moultrie, Hatchery, Hickory Top, Hickory Top Greentree Reservoir, Lancaster Reservoir, Turtle Island, Little Pee Dee River Complex (including Ervin Dargan, Horace Tilghman), Great Pee Dee River, Potato Creek Hatchery, Sampson Island Unit (Bear Island), Tyger River, Marsh, Wee Tee, Woodbury, Ditch Pond, Waccamaw River Heritage Preserve, Santee Cooper and 40 Acre Rock Waterfowl Management Areas. Hunting on Category II Designated Waterfowl Areas is in accordance with scheduled dates and times.

1. Biedler Impoundment
 - (a) Sat. AM only during regular season
 - (b) Federal bag limits
2. Bear Island
 - (a) Hunters selected by drawing during regular season
 - (b) Federal bag limits
3. Beaverdam
 - (a) Hunters selected by drawing during regular season
 - (b) Federal bag limits
4. Bonneau Ferry
 - (a) Hunters selected by drawing during regular season
 - (b) Federal bag limits
5. Broad River
 - (a) Hunters selected by drawing during regular season
 - (b) Federal bag limits
- 6 Carr Creek (bounded by Samworth WMA)
 - (a) Wed. and Sat. AM only during regular season
 - (b) Federal bag limits
7. Little Carr Creek (bounded by Samworth WMA)
 - (a) Wed. and Sat. AM only during regular season
 - (b) Federal bag limits
8. Clemson
 - (a) Hunters selected by drawing during regular season
 - (b) Federal bag limits
9. Ditch Pond
 - (a) Wed. AM only during regular season
 - (b) Federal bag limits
10. Donnelley
 - (a) Hunters selected by drawing during regular season
 - (b) Federal bag limits
11. Dunaway
 - (a) Sat. AM only during regular season
 - (b) Federal bag limits
12. Duncan Creek
 - (a) Sat. AM only during regular season
 - (b) Federal bag limits

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13. Dungannon
 - (a) Sat. AM only during regular season
 - (b) Federal bag limits
 - (c) No hunting from the Boardwalk
14. Enoree River
 - (a) Sat. AM only during regular season
 - (b) Federal bag limits
15. Hatchery
 - (a) Sat. AM only and until sunset on the last Sat. of the regular waterfowl season
 - (b) Federal bag limits
16. Hickory Top
 - (a) Federal waterfowl seasons
 - (b) Federal bag limits
17. Hickory Top Greentree Reservoir
 - (a) Sat. AM only during regular season
 - (b) Federal bag limits
 - (c) No hunting from roads and dikes
18. Lake Cunningham
 - (a) Wed. AM only during the regular season
 - (b) Federal bag limits
19. Lancaster Reservoir
 - (a) Mon. and Fri. AM only during the regular season
 - (b) Federal bag limits
20. Marsh
 - (a) Wed. and Sat. AM only during regular season
 - (b) Federal bag limits
21. Monticello Reservoir
 - (a) Wed. and Sat. AM only during regular season
 - (b) Federal bag limits
22. Moultrie
 - (a) Mon. through Sat. during regular season.
 - (b) Federal bag limits
23. Parr Reservoir
 - (a) Mon. through Sat. during regular season.
 - (b) Federal bag limits
24. Potato Creek Hatchery
 - (a) Wed. and Sat. only during regular season
 - (b) Federal bag limits
25. Russell Creek
 - (a) Wed. and Sat. AM only during regular season
 - (b) Federal bag limits
26. Sampson Island Unit (Bear Island)
 - (a) Thurs. and Sat. AM only during the regular season
 - (b) Federal bag limits
27. Samworth
 - (a) Hunters selected by drawing during regular season
 - (b) Federal bag limits
28. Sandy Beach
 - (a) Hunters selected by drawing during regular season
 - (b) Federal bag limits
29. Santee Coastal Reserve
 - (a) Hunters selected by drawing during regular season
 - (b) Federal bag limits

- 30. Santee Cooper
 - (a) Sat. AM only during regular season
 - (b) Federal bag limits
- 31. Santee-Delta
 - (a) Hunters selected by drawing during regular season
 - (b) Federal bag limits
- 32. Tibwin
 - (a) Special hunts by drawing during regular season
 - (b) Federal bag limits
- 33. Turtle Island
 - (a) Wed. and Sat. AM only during regular season
 - (b) Federal bag limits
- 34. Tyger River
 - (a) Sat. AM only during regular season
 - (b) Federal bag limits
- 35. Wee Tee
 - (a) Wed. and Sat. AM only during regular season
 - (b) Federal bag limits
- 36. Woodbury
 - (a) Wed. and Sat. AM only during regular season
 - (b) Federal bag limits
- 37. Great Pee Dee
 - (a) Wed. AM only during regular season
 - (b) Federal bag limits
- 38. Little Pee Dee River Complex
 - (a) Wed. AM only during regular season
 - (b) Federal bag limits
- 39. Waccamaw River HP
 - (a) Wed. and Sat. AM only during regular season
 - (b) Federal bag limits
- 40. 40-acre Rock
 - (a) Sat. AM only during regular season
 - (b) Federal bag limits

10.16 On Hickory Top WMA public waterfowl hunting without a Wildlife Management Area(WMA) permit is allowed on all land and water below 76.8'. Waterfowl hunting at or above elevation 76.8' requires a WMA permit. A WMA permit is required for waterfowl hunting in the Hickory Top Greentree Reservoir.

10.17 Designated Dove Management Areas include all dove management areas as published by the Department in the annual listing of WMA public dove fields and are subject to regulations filed annually.

10.18 Hickory Top Greentree Reservoir is closed to hunting access November 1 until March 1, except for special hunts designated by SCDNR. All hunters must accurately complete a data card and deposit card in receptacle prior to leaving the area. Hunting hours are from 30 minutes before legal sunrise until 11:00 am. Hunters may not enter the area prior to 5:00 am on hunt days. No open season on roads and dikes. Hunters may only use electric motors on boats.

10.19 On all State-owned, US Forest Service and other Federally-owned Category I and II Waterfowl Management Areas each hunter is limited to 25 non-toxic shells (steel, bismuth/tin, bismuth, tungsten-polymer, tungsten-iron) per hunt and no buckshot allowed.

10.20 On Enoree River, Dunaway, Duncan Creek, Russell Creek and Tyger River Waterfowl Areas data cards are required for hunter access during scheduled waterfowl hunts. Completed data cards must be returned daily upon leaving each of these areas.

10.21 Woodbury Waterfowl Management Area includes all SCDNR-owned property south of US Hwy 378 and bounded on the west by the Great Pee Dee River and Bluff Road and to the east by the Little Pee Dee River except no waterfowl hunting allowed in the area known as Hass Pond that is bounded on all sides by Hass Pond Road.

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AMPHIBIANS AND REPTILES

11.1 Taking of any amphibian or reptile, except the bullfrog, is prohibited on any Department-owned Wildlife Management Areas without written permission of the Department.

SUBARTICLE 2

CROW HUNTING SEASON

123-50. Crow Hunting Season.

The following rules and regulations shall hereby be provided for the hunting of crows in this State.

1. Crows shall not be hunted from aircraft.
2. The hunting season in this State shall extend from Nov. 1 until Mar. 1 of each year.
3. The penalty for the violation of these rules and regulations is that prescribed by 50-11-10 of the 1976 Code.

SUBARTICLE 3

OTHER BIG GAME

123-51. Turkey Hunting Rules and Seasons.

1. Total limit of 5 turkey statewide per person, 2 per day, gobblers only, unless otherwise specified. Total statewide and county bag limits include turkeys harvested on Wildlife Management Areas (WMAs). Small unnamed WMAs in counties indicated are open for turkey hunting. Turkey seasons and limits are as follows:

A. Game Zone 1

1. Other WMAs and Private Land
 - (a) Apr. 1 – May 1
 - (b) Bag limit 5

B. Game Zone 2

1. Other WMAs and Private Land
 - (a) Apr. 1 – May 1
 - (b) Bag limit 5
2. Keowee WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Shotguns only – north of Hwy 123 and west of the Keowee Arm of Lake Hartwell to Hwy 291 and west of Hwy 291. Archery only on other sections.
3. Draper WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Wed. and Sat. only
4. Belfast WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 1
 - (c) Hunters by drawing only
5. Worth Mountain WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Wed. and Sat. only

C. Game Zone 3

1. Other WMAs and Private Land
 - (a) Apr. 1 – May 1
 - (b) Aiken County Bag limit 5
 - (c) Lexington and Richland Counties Bag limit 2
2. Crackerneck WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 5
 - (c) Fri. and Sat. only
 - (d) Sign in and out at the gate required.
 - (e) Main gate opens at 4:30 am and closes at 1:00 pm.
3. Aiken Gopher Tortoise HP WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2

D. Game Zone 4

1. Other WMAs and Private Land
 - (a) Apr. 1 – May 1
 - (b) Kershaw County bag limit 5
 - (c) Chesterfield, Dillon, Florence, Marion and Marlboro Counties bag limit 2
2. Marsh WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Wed. and Sat. only
 - (d) Sign in and out at the kiosk required.
3. Sand Hills State Forest WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
4. McBee WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Wed. and Sat. only
5. Little Pee Dee River WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 1
 - (c) Fri. and Sat. only
6. Pee Dee Station Site WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 1
 - (c) Wed. and Sat. only
 - (d) All hunters must sign in and sign out at kiosk.
7. Woodbury WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Wed. through Sat. only
 - (d) All hunters must sign in and sign out at kiosk.

E. Game Zone 5

1. Other WMAs and Private Land
 - (a) Apr. 1 – May 1
 - (b) Clarendon, Georgetown, Williamsburg and Horry counties bag limit 5
 - (c) Darlington, Lee and Sumter counties bag limit 2
2. Great Pee Dee Heritage Preserve WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 1

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- (c) Wed. and Sat. only
 - (d) All hunters must sign in and sign out at kiosk.
 - 3. Longleaf Pine Heritage Preserve WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Wed. and Sat. only
 - 4. Manchester State Forest WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Wed. through Sat. only
 - 5. Hickory Top WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - 6. Oak Lea WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Wed. only
 - 7. Santee Dam WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - 8. Wee Tee WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Wed. and Sat. only
 - 9. Cartwheel Bay Heritage Preserve WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 1
 - (c) Fri. and Sat. only
 - 10. Lewis Ocean Bay Heritage Preserve WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 1
 - (c) Fri. and Sat. only
 - 11. Little Pee Dee River WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 1
 - (c) Fri. and Sat. only
 - 12. Waccamaw River Heritage Preserve WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 1
 - (c) Fri. and Sat. only
- F. Game Zone 6**
- 1. Private Land
 - (a) Mar. 15 – May 1
 - (b) Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Colleton, Dorchester, Hampton, Jasper and Orangeburg Counties bag limit 5
 - 2. Francis Marion National Forest
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Tibwin Special Use Area
 - (1) Apr. 1 – May 1
 - (2) Bag limit 2
 - (3) Special hunts for youth or mobility impaired hunters as published by SCDNR.

3. Moultrie
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Wed. and Sat. only
 - (d) Bluefield WMA
 - (1) Apr. 1 – May 1
 - (2) Bag limit 2
 - (3) Adult/Youth only
 - (e) Hall WMA
 - (1) Apr. 1 – May 1
 - (2) Bag limit 2
4. Santee Cooper WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 1
 - (c) Hunting by public draw only
5. Webb, Palachucola and Hamilton Ridge WMAs
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) All hunters must pick up and return data cards at kiosk and display hangtags on vehicles.
6. Donnelley WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 1
 - (c) Hunting by public draw only
7. Bonneau Ferry WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 1
 - (c) Hunting by public draw only
 - (d) Closed to public access during hunts.
8. Santee Coastal Reserve WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 1
 - (c) Youth or mobility impaired hunting by draw only.
9. Edisto WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Wed. only
10. Waccamaw River Heritage Preserve WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 1
 - (c) Fri. and Sat. only
11. Tillman Sand Ridge Heritage Preserve WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Fri. and Sat. only
12. Victoria Bluff Heritage Preserve WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 1
 - (c) Fri. and Sat. only
13. Botany Bay Plantation WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 1
 - (c) Youth hunting by draw only.

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G. Statewide Youth Hunting Day

- (a) Sat. before April 1
- (b) Bag limit 2
- (c) Youth Only

2. The following regulations apply statewide. No turkey hunting permitted on Turkey Restoration Sites which have not been formally opened by the Department.

(a) During the spring turkey hunting season, no game animal may be taken except turkey gobblers (bearded birds). During the fall turkey season both gobblers and hens may be taken.

(b) Shotguns, muzzleloader shotguns, or archery equipment are permitted. All other weapons and methods of taking are prohibited including rifles, pistols, hard jacketed bullets, buckshot and slugs.

(c) Turkeys may not be hunted with dogs.

(d) Live decoys are prohibited.

123-52. Either-sex Days for Private Lands in Game Zones 1-6.

1. Game Zone 1: The first three Sat. in Nov.

2. Game Zones 2 – 6: Every Sat. from Oct. 1 to the Sat. after Thanksgiving Day inclusive; Sat. in Dec. beginning 23 days after Thanksgiving Day; and the last day of the open season.

3. The daily bag limit on either-sex days is 2 antlerless deer.

4. On special mobility impaired and youth deer hunts sanctioned by the Department and during the statewide youth deer hunt day, participants may take antlerless deer, 2 per day.

5. Individual Deer Tags: Individual Antlerless Deer Tags are not valid in Game Zone 1. Tags are valid in Game Zones 3 – 6 beginning Sept. 15 and in Game Zone 2 beginning Oct. 1. Individual tags are not valid on properties enrolled in the Antlerless Deer Quota Program. Tags do not alter the daily (2 per day) or seasonal limit or change the type of weapons that can be used during special weapons seasons.

Fiscal Impact Statement:

The replacement of Regulations 123-40, 123-50, 123-51, and 123-52 will not have fiscal impact since the changes are only in regulation format.

Statement of Rationale:

Rationale for the formulation of these regulations is based on over 60 years of experience by SCDNR in establishing public hunting areas. New areas are evaluated on location, size, current wildlife presence, access and recreation use potential. Contractual agreements with the landowners provide guidelines for the use and management of the property. Wildlife Management Area agreements are on file with the Wildlife Management Section of the Department of Natural Resources, Room 267, Dennis Building, 1000 Assembly Street, Columbia. These regulations are format changes only and do not change content of existing regulations.

Document No. 4341
DEPARTMENT OF NATURAL RESOURCES
 CHAPTER 123
 Statutory Authority: 1976 Code Section 50-13-2011

123-209. Term and Conditions for the Public's Use of Lakes and Ponds Owned by the Department of Natural Resources

123-210. Term and Conditions for the Public's Use of Lakes and Ponds Leased by the Department of Natural Resources

Synopsis:

The Department of Natural Resources (the department) proposes to establish Regulation 123-209 setting the terms and conditions for the public use of lakes and ponds owned the department for the purpose of providing public fishing and Regulation 123-210 setting terms and conditions for the public's use of lakes and ponds leased by the department for the purpose of providing public fishing.

The Notice of Drafting regarding these regulations was published on December 28, 2012 in the *State Register*.

Instructions:

Print Regulation 123-209 and 123-210 as shown below.

Text:

123-209. Term and Conditions for the Public's Use of Lakes and Ponds Owned by the Department of Natural Resources.

A. Under the statutory authority provided to the Department of Natural Resources (the department) through 1976 Code Section 50-13-2011, the department may establish terms and conditions under which the public may use the lakes and ponds it owns pursuant to the provisions of Article 3, Chapter 23, Title 1 (the Administrative Procedures Act).

B. Pursuant to the conditions provided in 1976 Code Section 50-11-2200 prohibiting certain acts and conduct on department owned lands, regulations defining the terms and conditions for public use of lakes and ponds owned by the department are as follows:

- a. Draper WMA State Lakes in York County
 - i. Lakes open for fishing from one-half hour before official sunrise to one-half hour after official sunset, every day except Tuesday. The ponds are closed to fishing on Tuesdays.
 - ii. Fishing is allowed with only rod and reels or poles. The statewide limit on the number of these devices applies.
 - iii. No minnows allowed for bait.
 - iv. Combined daily fish limits from all ponds are 3 largemouth bass 14 inches or longer, 15 bream, and 3 catfish. Statewide limits apply for all other fish species.
 - v. Trails are for walking or fishing access only; no ATVs, motorized vehicles, or horses allowed on these trails.
 - vi. Pets must be on leashes or under the control of their owner at all times.
 - vii. No boats are allowed in ponds.
 - viii. The possession or consumption of alcoholic beverages is prohibited on department lake properties, except as by special permit of the department.

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b. Lake Cherokee in Cherokee County

i. The lake is open to fishing 24 hours a day. The lake is open for other allowed purposes from one-half hour before official sunrise until one-half hour after official sunset.

ii. Fishing is allowed with only rod and reels or poles. The statewide limit on the number of these devices applies.

iii. Daily fish limits are 20 bream, 3 largemouth bass 15 inches or longer, and 3 catfish. Statewide limits apply for all other fish species.

iv. Vehicles are restricted to roads and designated access areas only.

v. Trails are for walking or fishing access only; no ATVs, motorized vehicles, or horses allowed on these trails.

vi. Pets must be on leashes or under the control of their owner at all times.

vii. Boats are allowed, but may only be propelled by paddle or electric trolling motors.

viii. The possession or consumption of alcoholic beverages is prohibited on department lake properties, except as by special permit of the department.

c. Lake Edgar Brown in Barnwell County

i. The lake is open to fishing 24 hours a day. The lake is open for other allowed purposes from one-half hour before official sunrise until one-half hour after official sunset.

ii. Fishing is allowed with only rod and reels or poles. The statewide limit on the number of these devices applies.

iii. Daily fish limits are 20 bream, 3 catfish, and 3 largemouth bass 16 inches or longer. Statewide limits apply for all other fish species.

iv. Vehicles are restricted to roads and designated access areas only. No motorized vehicles of any type allowed on dikes.

v. Trails are for walking or fishing access only; no ATVs, motorized vehicles, or horses allowed on these trails.

vi. Pets must be on leashes or under the control of their owner at all times.

vii. Motor powered boats are allowed. Only outboard motors rated at 10 horsepower or less are allowed north of Wellington Road.

viii. The possession or consumption of alcoholic beverages is prohibited on department lake properties, except as by special permit of the department.

d. Lake George Warren in Hampton County

i. The lake is open to fishing 24 hours a day. The lake is open for other allowed purposes from one-half hour before official sunrise until one-half hour after official sunset.

ii. Fishing is allowed with only rod and reels or poles. The statewide limit on the number of these devices applies.

iii. Daily fish limits are 20 bream, 3 catfish, and 3 largemouth bass. Statewide limits apply for all other fish species.

iv. Vehicles are restricted to roads and designated access areas only.

v. Trails are for walking or fishing access only; no ATVs, motorized vehicles, or horses allowed on these trails.

vi. Pets must be on leashes or under the control of their owner at all times.

vii. Boats are allowed, but may only be propelled by paddle, electric trolling motors or outboard motors rated at 10 horsepower or less.

viii. The possession or consumption of alcoholic beverages is prohibited on department lake properties, except as by special permit of the department.

e. Lake John D. Long in Union County

i. The lake is open from one-half hour before official sunrise until one-half hour after official sunset.

ii. Fishing is allowed with only rod and reels or poles. The statewide limit on the number of these devices applies.

iii. Daily fish limits are 10 bream, 3 catfish, and 3 largemouth bass. Statewide limits apply for all other fish species.

iv. Vehicles are restricted to roads and designated access areas only.

v. Trails are for walking or fishing access only; no ATVs, motorized vehicles, or horses allowed on these trails.

vi. Pets must be on leashes or under the control of their owner at all times.

vii. No minnows allowed for bait.

viii. Boats are allowed, but may only be propelled by paddle or electric trolling motors.

ix. The possession or consumption of alcoholic beverages is prohibited on department lake properties, except as by special permit of the department.

x. Lake Long will be closed at all times for renovation and restocking from July 1, 2013 through June 30, 2015. Lake Long will reopen on July 1, 2015.

f. Mountain Lakes in Chester County

i. The lakes are open on Tuesday, Thursday, Saturday, and Sunday from one-half hour before official sunrise to one-half hour after official sunset.

ii. Fishing is allowed with only rod and reels or poles. The statewide limit on the number of these devices applies.

iii. Daily fish limits are 10 bream, 3 catfish, and 1 largemouth bass 16 inches or longer. Statewide limits apply for all other fish species.

iv. Vehicles are restricted to roads and designated access areas only.

v. Trails are for walking or fishing access only; no ATVs, motorized vehicles, or horses allowed on these trails.

vi. Pets must be on leashes or under the control of their owner at all times.

vii. No minnows allowed for bait.

viii. Boats are allowed, but may only be propelled by paddle or electric trolling motors.

ix. The possession or consumption of alcoholic beverages is prohibited on department lake properties, except as by special permit of the department.

g. Lake Paul Wallace in Marlboro County

i. The lake is open to fishing 24 hours a day. The lake is open for other allowed purposes from one-half hour before official sunrise until one-half hour after official sunset.

ii. Fishing is allowed with only rod and reels or poles. The statewide limit on the number of these devices applies.

iii. Daily limits are 20 bream and 3 catfish. No harvesting of largemouth bass (Catch and Release only). Statewide limits apply for all other fish species.

iv. No minnows allowed for bait.

v. Vehicles are restricted to roads and designated access areas only.

vi. Trails are for walking or fishing access only, no ATVs, motorized vehicles, or horses allowed on these trails.

vii. Pets must be on leashes or under the control of their owner at all times.

viii. The possession or consumption of alcoholic beverages is prohibited on department lake properties, except as by special permit of the department.

ix. Lake may be closed for special use activities by special permit of the department.

x. Lake Wallace Fishing Side (East of the earthen dike that separates the two lake portions)

1. Boats are allowed, but may only be propelled by paddle, electric trolling motors or outboard motors rated at 10 horsepower or less.

xi. Lake Wallace Boating Side (West of the earthen dike which separates the two lake portions)

1. Boats and water skiing are allowed and must follow a counter-clockwise route of travel.

2. Jet Ski or personal watercraft are allowed but not within 200 feet of boats.

3. All other South Carolina watercraft rules and regulations apply.

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h. Lake Thicketty in Cherokee County

i. The lake is open to fishing 24 hours a day. The lake is open for other allowed purposes from one-half hour before official sunrise until one-half hour after official sunset.

ii. Fishing is allowed with only rod and reels or poles. The statewide limit on the number of these devices applies.

iii. Daily fish limits are 20 bream, 3 largemouth bass and 3 catfish. Statewide limits apply for all other fish species.

iv. Vehicles are restricted to roads and designated access areas only.

v. Trails are for walking or fishing access only, no ATVs, motorized vehicles, or horses allowed on these trails.

vi. Pets must be on leashes or under the control of their owner at all times.

vii. Boats are allowed, but may only be propelled by paddle, electric trolling motors or outboard motors rated at 10 horsepower or less.

viii. The possession or consumption of alcoholic beverages is prohibited on department lake properties, except as by special permit of the department.

i. Webb Center Lakes in Hampton County

i. The lakes are open for fishing Monday through Saturday from one-half hour before official sunrise until one-half hour after official sunset except for Monday afternoons, Tuesday mornings, Friday afternoon, and Saturday morning during scheduled deer hunts (October 1 – January 1).

ii. Fishing is allowed with only rod and reels or poles. The state wide limit on the number of these devices applies.

iii. Daily fish limits are 30 bream and 10 largemouth bass. Statewide limits apply for all other fish species.

iv. Vehicles are restricted to roads and designated access areas only.

v. Trails are for walking or fishing access only, no ATVs, motorized vehicles, or horses allowed on these trails.

vi. Pets must be on leashes or under the control of their owner at all times.

vii. No minnows allowed for bait.

viii. Boats are allowed, but may only be propelled by paddle or electric trolling motors.

ix. The possession or consumption of alcoholic beverages is prohibited on department lake properties, except as by special permit of the department.

123-210. Term and Conditions for the Public's Use of Lakes and Ponds Leased by the Department of Natural Resources.

A. Under the statutory authority provided to the Department of Natural Resources (the department) through 1976 Code Section 50-13-2011 the department may establish terms and conditions under which the public may use the lakes and ponds it leases pursuant to the provisions of Article 3, Chapter 23, Title 1 (the Administrative Procedures Act).

B. Regulations defining the terms and conditions for public use of lakes and ponds leased by the department are as follows:

a. Lake Ashwood in Lee County

i. A valid South Carolina fishing license is required for all persons 16 years of age or older.

ii. The lake is open from one-half hour before official sunrise until one-half hour after official sunset seven days a week.

iii. Fishing is allowed with only rod and reels or poles. The statewide limit on the number of these devices applies.

iv. Daily fish limits are 20 bream, 3 catfish, and 3 largemouth bass. Statewide limits apply for all other fish species.

v. Vehicles are restricted to roads and designated access areas only.

vi. Trails are for walking or fishing access only; no ATVs, motorized vehicles, or horses allowed on these trails.

vii. Pets must be on leashes or under the control of their owner at all times.

viii. Boats are allowed, but may only be propelled by paddle, electric trolling motors or outboard motors rated at 10 horsepower or less.

ix. All boats must meet U.S. Coast Guard requirements for operation and equipment.

x. The possession or consumption of alcoholic beverages is prohibited on department lake properties, except as by special permit of the department.

xi. The following activities are prohibited:

1. Snagging of fish or the use of any nongame fish device
2. Swimming
3. Loitering
4. Hunting
5. Camping
6. Trapping
7. Loud noise or loud music
8. Fireworks
9. Fires (allowed in grill or designated areas only)
10. Possession or discharging of firearms.

b. Dargan's Pond in Darlington County

i. A valid South Carolina fishing license is required for all persons 16 years of age or older.

ii. The lake is open on Wednesday and Saturday only (March 1 – September 30), from one-half hour before official sunrise to one-half hour after official sunset.

iii. Fishing is allowed with only rod and reels or poles. The statewide limit on the number of these devices applies.

iv. Daily fish limits are 20 bream, 3 catfish, and 3 largemouth bass 16 inches or longer. Fishermen are allowed to keep 2 bass under the 16" minimum. Statewide limits apply for all other fish species.

v. Vehicles and pedestrians are restricted to roads and designated access areas only.

vi. Trails are for walking or fishing access only; no ATVs, motorized vehicles, or horses allowed on these trails.

vii. Pets must be on leashes or under the control of their owner at all times.

viii. Boats are allowed, but may only be propelled by paddle or electric trolling motors.

ix. All boats must meet U.S. Coast Guard requirements for operation and equipment.

x. The possession or consumption of alcoholic beverages is prohibited on department lake properties, except as by special permit of the department.

xi. The following activities are prohibited:

1. Snagging of fish or the use of any nongame fish device
2. Swimming
3. Loitering
4. Hunting
5. Camping
6. Trapping
7. Loud noise or loud music
8. Fireworks
9. Fires (allowed in designated areas only)
10. Possession or discharging of firearms.

c. Lake Edwin Johnson in Spartanburg County

i. A valid South Carolina fishing license is required for all persons 16 years of age or older.

ii. The lake is open one-half hour before official sunrise until one-half hour after official sunset seven days a week.

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iii. Fishing is allowed with only rod and reels or poles. The statewide limit on the number of these devices applies.

iv. Daily fish limits are 10 bream, 3 catfish, and 3 largemouth bass 15 inches or longer. Statewide limits apply for all other fish species.

v. Vehicles are restricted to roads and designated access areas only.

vi. Trails are for walking or fishing access only; no ATVs, motorized vehicles, or horses allowed on these trails.

vii. Pets must be on leashes or under the control of their owner at all times.

viii. No minnows allowed for bait.

ix. Boats are allowed, but may only be propelled by paddle or electric trolling motors.

x. All boats must meet U.S. Coast Guard requirements for operation and equipment.

xi. The possession or consumption of alcoholic beverages is prohibited on department lake properties, except as by special permit of the department.

xii. The following activities are prohibited:

1. Snagging of fish or the use of any nongame fish device
2. Swimming
3. Loitering
4. Hunting
5. Camping
6. Trapping
7. Loud noise or loud music
8. Fireworks
9. Fires (allowed in grill or designated areas only)
10. Possession or discharging of firearms.

d. Jonesville Reservoir in Union County

i. A valid South Carolina fishing license is required for all persons 16 years of age or older.

ii. The lake is open on Monday, Wednesday, and Saturday only, from one-half hour before official sunrise to one-half hour after official sunset.

iii. Fishing is allowed with only rod and reels or poles. The statewide limit on the number of these devices applies.

iv. Daily fish limits are 10 bream, 3 catfish, and 3 largemouth bass. Statewide limits apply for all other fish species.

v. Vehicles are restricted to roads and designated access areas only.

vi. Trails are for walking or fishing access only; no ATVs, motorized vehicles, or horses allowed on these trails.

vii. Pets must be on leashes or under the control of their owner at all times.

viii. No minnows allowed for bait.

ix. Boats are allowed, but may only be propelled by paddle or electric trolling motors.

x. All boats must meet U.S. Coast Guard requirements for operation and equipment.

xi. The possession or consumption of alcoholic beverages is prohibited on department lake properties, except as by special permit of the department.

xii. The following activities are prohibited:

1. Snagging of fish or the use of any nongame fish device
2. Swimming
3. Loitering
4. Hunting
5. Camping
6. Trapping
7. Loud noise or loud music
8. Fireworks
9. Fires (allowed in grill or designated areas only)
10. Possession or discharging of firearms.

- e. Lancaster Reservoir in Lancaster County
 - i. A valid South Carolina fishing license is required for all persons 16 years of age or older.
 - ii. The lake is open on Thursday and Saturday from one-half hour before official sunrise to one-half hour after official sunset.
 - iii. Fishing is allowed with only rod and reels or poles. The statewide limit on the number of these devices applies.
 - iv. Daily fish limits are 20 bream, 3 catfish, 2 largemouth bass 16 inches or longer, and 30 crappie. Statewide limits apply for all other fish species.
 - v. Vehicles are restricted to roads and designated access areas only.
 - vi. Trails are for walking or fishing access only; no ATVs, motorized vehicles, or horses allowed on these trails.
 - vii. Pets must be on leashes or under the control of their owner at all times.
 - viii. No minnows allowed for bait.
 - ix. Boats are allowed, but may only be propelled by paddle or electric trolling motors.
 - x. All boats must meet U.S. Coast Guard requirements for operation and equipment.
 - xi. The possession or consumption of alcoholic beverages is prohibited on department lake properties, except as by special permit of the department.
 - xii. The following activities are prohibited:
 - 1. Snagging of fish or the use of any nongame fish device
 - 2. Swimming
 - 3. Loitering
 - 4. Hunting (except in the designated waterfowl area)
 - 5. Camping
 - 6. Trapping
 - 7. Loud noise or loud music
 - 8. Fireworks
 - 9. Fires (allowed in designated areas only)
 - 10. Possession or discharging of firearms.

- f. Lake Oliphant in Chester County
 - i. A valid South Carolina fishing license is required for all persons 16 years of age or older.
 - ii. The lake is open on Monday, Wednesday, and Saturday, from one-half hour before sunrise to one-half hour after official sunset.
 - iii. Fishing is allowed with only rod and reels or poles. The statewide limit on the number of these devices applies.
 - iv. Daily fish limits are 20 bream, 3 largemouth bass 14 inches or longer, and 3 catfish per day. Statewide limits apply for all other fish species.
 - v. Vehicles are restricted to roads and designated access areas only.
 - vi. Trails are for walking or fishing access only; no ATVs, motorized vehicles, or horses allowed on these trails.
 - vii. Pets must be on leashes or under the control of their owner at all times.
 - viii. No minnows allowed for bait.
 - ix. Boats are allowed, but may only be propelled by paddle or electric trolling motors.
 - x. All boats must meet U.S. Coast Guard requirements for operation and equipment.
 - xi. The possession or consumption of alcoholic beverages is prohibited on department lake properties, except as by special permit of the department.
 - xii. The following activities are prohibited:
 - 1. Snagging of fish or the use of any nongame fish device
 - 2. Swimming
 - 3. Loitering
 - 4. Hunting
 - 5. Camping
 - 6. Trapping

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7. Loud noise or loud music
8. Fireworks
9. Fires (allowed in grill or designated areas only)
10. Possession or discharging of firearms.

g. Star Fort Pond in Greenwood County

- i. A valid South Carolina fishing license is required for all persons 16 years of age or older.
- ii. The lake is open to fishing (April 1 – November 1) on Wednesday, Friday, and Saturday, from one-half hour before official sunrise to one-half hour after official sunset.
- iii. Fishing is allowed with only rod and reels or poles. The statewide limit on the number of these devices applies.
- iv. Daily fish limits are 10 bream, 3 catfish, and 3 largemouth bass 12 inches or longer. Statewide limits apply for all other fish species.
- v. Vehicles are restricted to roads and designated access areas only.
- vi. Trails are for walking or fishing access only; no ATVs, motorized vehicles, or horses allowed on these trails.
- vii. Pets must be on leashes or under the control of their owner at all times.
- viii. No minnows allowed for bait.
- ix. Boats are allowed, but may only be propelled by paddle or electric trolling motors.
- x. All boats must meet U.S. Coast Guard requirements for operation and equipment.
- xi. The possession or consumption of alcoholic beverages is prohibited on department lake properties, except as by special permit of the department.
- xii. The following activities are prohibited:
 1. Snagging of fish or the use of any nongame fish device
 2. Swimming
 3. Loitering
 4. Hunting
 5. Camping
 6. Trapping
 7. Loud noise or loud music
 8. Fireworks
 9. Fires (allowed in designated areas only)
 10. Possession or discharging of firearms.

h. Sunrise Lake in Lancaster County

- i. A valid South Carolina fishing license is required for all persons 16 years of age or older.
- ii. The lake is open to fishing on Monday, Wednesday, and Saturday, from one-half hour before official sunrise to one-half hour after official sunset.
- iii. Fishing is allowed with only rod and reels or poles. The statewide limit on the number of these devices applies.
- iv. Daily fish limits are 20 bream, 3 catfish, and 2 largemouth bass 16 inches or longer. Statewide limits apply for all other fish species.
- v. Vehicles are restricted to roads and designated access areas only.
- vi. Trails are for walking or fishing access only; no ATVs, motorized vehicles, or horses allowed on these trails.
- vii. Pets must be on leashes or under the control of their owner at all times.
- viii. No minnows allowed for bait.
- ix. Boats are allowed, but may only be propelled by paddle or electric trolling motors.
- x. All boats must meet U.S. Coast Guard requirements for operation and equipment.
- xi. Entry to this property is allowed from Boyd Faile Road only.
- xii. The possession or consumption of alcoholic beverages is prohibited on department lake properties, except as by special permit of the department.
- xiii. The following activities are prohibited:

1. Snagging of fish or the use of any nongame fish device
2. Swimming
3. Loitering
4. Hunting
5. Camping
6. Trapping
7. Loud noise or loud music
8. Fireworks
9. Fires (allowed in designated areas only)
10. Possession or discharging of firearms.

Fiscal Impact Statement:

Establishment of these regulations will not result in any additional costs to the State. The State and local communities will continue to benefit economically from the activities of the public accessing and utilizing the lakes and ponds for recreational fishing and outdoor recreation.

Statement of Rationale:

Regulation 123-209 is added to establish the terms and conditions to provide for the public’s use of lakes and ponds owned by the department for the purpose of providing public fishing.

Regulation 123-210 is added to establish the terms and conditions to provide for the public’s use of lakes and ponds leased by the department for the purpose of providing public fishing.

Document No. 4328

**OCCUPATIONAL THERAPY BOARD
CHAPTER 94**

Statutory Authority: 1976 Code Sections 40-1-70 and 40-36-10 et seq.

94-01 through 94-10. Occupational Therapy Board

Synopsis:

To satisfy the requirements of licensure for occupational therapists, Regulations 94-01 through 94-10 must be updated in conformance with the current Occupational Therapy Practice Act.

The Notice of Drafting was published in the *State Register* on October 26, 2012.

Instructions:

The following sections of Chapter 94 are modified as provided below. All other items and sections remain unchanged.

Text:

**ARTICLE 1
DEFINITIONS**

94-01. Repealed by State Register Volume 36, Issue No. 6, eff June 22, 2012.

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ARTICLE 2 OFFICERS OF THE BOARD; MEETINGS

94-02. Officers of Board.

At the first meeting of each calendar year, the Board shall elect from among its members a chairman, vice-chairman, and other officers as the Board determines necessary.

94-03. Meetings.

(1) The Board shall meet at least two (2) times a year and at other times upon the call of the chairman or a majority of the Board members.

(2) A majority of the members of the Board constitutes a quorum; however, if there is a vacancy on the Board, a majority of the members serving constitutes a quorum.

(3) Board members are required to attend meetings or to provide proper notice and justification of inability to do so. Unexcused absences from meetings may result in removal from the Board as provided in Section 1-3-240.

ARTICLE 3 LICENSING PROVISIONS

94-04. General Licensing Provisions for Occupational Therapists.

An applicant for initial licensure as an occupational therapist must:

(1) be a graduate of an occupational therapy educational program approved by the Board; and

(2) submit an application on a form approved by the Board, along with the required fee; and

(3) pass an examination approved by the Board; and

(4) submit proof satisfactory to the Board that the applicant is in good standing with the National Board for Certification in Occupational Therapy (NBCOT) or other Board-approved certification program.

94-05. General Licensing Provisions for Occupational Therapy Assistants.

An applicant for initial licensure as an occupational therapy assistant must:

(1) be a graduate of an occupational therapy assistant program approved by the Board; and

(2) submit an application on a form approved by the Board, along with the required fee; and

(3) pass an examination approved by the Board; and

(4) submit proof satisfactory to the Board that the applicant is in good standing with the National Board for Certification in Occupational Therapy (NBCOT) or other Board-approved certification program.

(5) The Board must annually review NBCOT, or other Board-approved program, requirements for initial certification and certification renewal.

94-06. Licensure by Endorsement.

An applicant for licensure as an occupational therapist or occupational therapy assistant by endorsement must:

(1) hold a current, active, and unrestricted license under the laws of another state or territory that had requirements that were, at the date of licensure, equivalent to the requirements in effect at the time of application in South Carolina; and

(2) submit proof satisfactory to the Board of current certification in good standing with the National Board for Certification in Occupational Therapy (NBCOT) or other Board-approved certification program; and

(3) submit an application on forms approved by the Board, with the required fee; and

(4) submit verification of all current permanent licenses in other states from each state.

94-07. Reactivation of Inactive or Lapsed Licenses.

The Board may issue a provisional license to a licensee for the sole purpose of seeking reactivation of the license, and a reinstatement fee must be paid to obtain this provisional license. The provisional licensee must be in good standing with NBCOT, and submit a plan of action to the Board on a Board approved form for obtaining the requirements in 94-04 and 94-05 to be completed within one calendar year. All components must be tracked on a Board approved form.

(1) An occupational therapist or occupational therapy assistant whose license has been inactive or lapsed for three (3) years but less than five (5) years may reactivate the license by applying to the Board, demonstrating evidence satisfactory to the Board on a form approved by the Board of five hundred (500) hours of clinical practice under the on-site supervision of an occupational therapist, and paying the reactivation fee.

(2) An occupational therapist or occupational therapy assistant whose license has been inactive or lapsed for five (5) years but less than ten (10) years may reactivate the license by applying to the Board, demonstrating evidence satisfactory to the Board of no less than seven hundred fifty (750) hours under the on-site supervision of an occupational therapist licensed in this State, successful completion of a course(s) approved by the Board, and paying the reactivation fee.

(3) An occupational therapist or occupational therapy assistant whose license has been inactive or lapsed for ten (10) years or more may reactivate the license by applying to the Board, demonstrating evidence satisfactory to the Board of no less than one thousand (1000) hours under the on-site supervision of an occupational therapist licensed in this State, successfully passing an examination administered or approved by the Board, and paying the reactivation fee.

(4) Provisional licenses are not renewable without appearing before the Board.

ARTICLE 4
CONTINUING EDUCATION

94-08. Continuing Education.

(1) A licensee must maintain continuing education requirements in compliance with NBCOT or other board-approved standards.

(2) The Board reserves the right to audit continuing education requirements, or delegate audit of continuing education requirements.

ARTICLE 5
FEES

94-09. Fees.

Fees are as follows:

- | | |
|---|------------------------|
| (1) Application fee | |
| (a) occupational therapist | \$135.00 |
| (b) occupational therapy assistant | \$115.00 |
| (2) Biennial license renewal | |
| (a) occupational therapist | \$100.00 |
| (b) occupational therapy assistant | \$80.00 |
| (3) Late Renewal Penalty | \$50.00 |
| (4) Reactivation (Inactive to Active) | |
| (a) occupational therapist | \$50 + renewal fee |
| (b) occupational therapy assistant | \$50 + renewal fee |
| (5) Reactivation (lapsed to active) | \$300.00 - renewal fee |
| (6) License verification to another state | \$5.00 |
| (7) Name change and new license | \$10.00 |
| (8) Duplicate license | \$10.00 |

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(9) Duplicate certificate – wall certificate	\$10.00
(10) Returned check charge (or amount specified by law; see Section 34-11-70)	\$30.00
(11) Temporary License Fee	\$10.00
(12) Registry of Applicants (licensee mailing list)	\$10.00

A check which is presented to the Board as payment for a fee which the Board is permitted to charge under this chapter and which is returned unpaid may be cause for denial of a license or for imposing a sanction authorized under this chapter or Section 40-1-50(G).

ARTICLE 6 CODE OF ETHICS

94-10. Code of Ethics.

Principle 1. Occupational Therapy personnel shall demonstrate a concern for the well-being and safety of the recipients of their services.

(a) Occupational Therapy personnel shall provide services in an equitable manner for all individuals.

(b) Occupational Therapy personnel shall provide evaluations and re-evaluations/assessments as well as a therapeutic treatment plan for all recipients of their services.

(c) Occupational Therapy personnel shall provide services that are within each practitioner's level of competence and scope of practice.

(d) Occupational Therapy personnel shall strive to ensure that fees are fair, reasonable, and commensurate with the service performed and are set with due regard for the service recipient.

(e) Occupational Therapy personnel shall use therapeutic equipment, evidence based practice, and interventions that are recognized within the scope of occupational therapy practice.

(f) Occupational Therapy personnel shall terminate services when deemed appropriate; for example, recipient refuses services, goals have been met, or services no longer produce a measurable change or outcome.

(g) Occupational Therapy personnel shall report to appropriate personnel any acts in practice, educational and research that appear unethical or illegal.

(h) Occupational Therapists shall refer recipients to other service providers or consult with other service providers when additional knowledge and expertise are required.

Principle 2. Occupational Therapy personnel shall respect the rights of the recipient of their services.

(a) Occupational Therapy personnel shall avoid inflicting intentional harm or injury to recipients of occupational therapy services.

(b) Occupational Therapy personnel shall maintain relationships or activity whether consensual or nonconsensual do not exploit the recipient of services sexually, physically, emotionally, financially, socially or in any other manner.

(c) Occupational Therapy personnel shall avoid relationships or activities that interfere with professional judgment and objectivity.

(d) Occupational Therapy personnel shall inform the service recipients of the nature, risks, and potential outcomes of any interventions.

(e) Occupational Therapy personnel shall avoid influences such as drugs, alcohol or illegal contraband that may compromise the provision of occupational therapy services, education or research.

(f) Occupational Therapy personnel shall respect the individual's right to refuse professional services or involvement in research or educational activities.

(g) Occupational Therapy personnel shall protect the confidential nature of information gained from educational, practice, research and investigational activities.

(h) Occupational Therapy personnel shall collaborate with service recipients or their surrogate(s) in determining goals and priorities throughout the intervention process.

(i) Occupational Therapy personnel shall obtain informed consent from subjects involved in research activities indicating they have been fully advised of the potential risks and outcomes.

Principle 3. Occupational Therapy personnel shall achieve and continually maintain high standards of competence.

(a) Occupational Therapy personnel shall hold the appropriate national and state credentials for providing services.

(b) Occupational Therapy personnel shall hold appropriate national and state credentials for providing services according to the state practice act, statutes and regulations.

(c) Occupational Therapy personnel shall maintain competence by completing professional development and education activities according to the state practice act, statutes and regulations.

(d) Occupational Therapy personnel shall provide supervision to individuals for whom the practitioners have supervisory responsibility.

Principle 4. Occupational Therapy personnel shall comply with local, state, and federal laws guiding the profession of occupational therapy.

(a) Occupational Therapy personnel shall report convictions in writing to S.C. Department of Labor, Licensing and Regulation, Board of Occupational Therapy, within thirty (30) days.

(b) Occupational Therapy personnel shall abide by local, state, and federal laws.

(c) Occupational Therapy personnel shall inform employers and colleagues about those laws that apply to the profession of occupational therapy.

(d) Occupational Therapy personnel shall require those they supervise in occupational therapy related activities to adhere to this code of ethics.

(e) Occupational Therapy personnel shall perform duties that are within the scope of practice of occupational therapy and commensurate with their qualifications and experience.

Principle 5. Occupational Therapy personnel shall provide accurate information about occupational therapy services.

(a) Occupational Therapy personnel shall accurately represent their qualifications, education, experience, training and competences.

(b) Occupational Therapy personnel shall disclose any affiliations that may conflict with the practice of occupational therapy services to persons affected by the conflict.

(c) Occupational Therapy personnel shall refrain from using or participating in the use of communication that contains false, fraudulent, deceptive or unfair statements or claims.

(d) Occupational Therapy personnel shall provide the most accurate and recent information to service providers during the practice of occupational therapy services.

(e) Occupational Therapy personnel shall accurately document qualifications, views, contributions and findings during the practice of occupational therapy services.

(f) Occupational Therapy personnel shall accurately record and report all information related to professional activities.

Principle 6. Occupational Therapy personnel shall treat colleagues, service recipients, and all other personnel associated with the practice of occupational therapy with fairness, discretion, respect, integrity, and truthfulness.

(a) Occupational Therapy personnel shall abide by local, state, and federal laws established for confidential information in the practice of occupational therapy services.

(b) Occupational Therapy personnel shall avoid sexual harassment or misconduct.

(c) Occupational Therapy personnel shall report any breach of this code of ethics to the Board of Occupational Therapy.

Fiscal Impact Statement:

There will be no cost incurred by the State or any of its political subdivisions.

Statement of Rationale:

These regulations are updated in conformance with the current Occupational Therapy Practice Act.

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Document No. 4168

PERPETUAL CARE CEMETERY BOARD

CHAPTER 21

Statutory Authority: 1976 Code Sections 40-8-10 et seq.

21-1 through 21-27. Perpetual Care Cemetery Board

Synopsis:

The Perpetual Care Cemetery Board is amending current regulations 21-1 through 21-60 and deleting Regulation 21-61 through 21-64 to clarify and conform to the Perpetual Care Cemetery Practice Act. These regulations also are updated to reflect statutory amendments made to the South Carolina Perpetual Care Cemetery Act by 2002 Act 322.

The Notice of Drafting was published in the *State Register* on November 26, 2010.

Instructions:

Replace 21-1 through 21-27 as printed below.

Delete 21-60 through 21-64.

Text:

SUBARTICLE 1

21-1. General Purpose.

The general purpose of the Perpetual Care Cemetery Board is to protect the public and to regulate and supervise the activities of cemeteries licensed under the laws of South Carolina.

21-2. Definitions.

(1) "Complaint log" is a required record, pursuant to Section 40-8-100(B), of written complaints received regarding cemeteries. This log must be kept in writing by the cemetery.

(2) "Examined", as used in Section 40-8-100(A), and subsequently with "examination", means a special report to be determined by the board. The Cemetery Board will, as often as it deems necessary, make a physical examination of each cemetery within reasonable business hours to insure compliance with applicable laws.

(3) "Financial institution" means a bank, trust company, or savings and loan association authorized by law to do business in this State.

(4) "Licensed public accountant" means public accountant (PA) or certified public accountant (CPA) licensed in one of the United States or its territories and this accountant must practice independently from the cemetery company the accountant examines. Said accountant, pursuant to Section 40-8-100(A), shall examine a cemetery company's care and maintenance trust fund and merchandise fund every three (3) years even if there was not a previous account.

(5) "Licensee" means a person or entity granted an authorization or license to operate pursuant to this chapter and refers to a person holding a license granted pursuant to this chapter.

(6) "Nature preserve", for the purposes of this chapter, is a conservation burial ground for the interment of human remains.

(7) "Opening/closing" means the process of opening and closing of a grave site, which must be done in a timely manner.

(8) "Principal place of business" means the licensed cemetery's office or primary in-state location, as per Section 40-8-100(A).

(9) "Services" or "cemetery services" means any act or activity by a cemetery in relation to arranging, supervising, interring or disposing of the remains or commemorating the memory of deceased human beings.

(10) “Non-Profit Cemetery” means a cemetery owned by a non-profit group which has established 501(C)(3) status with the Internal Revenue Service (IRS).

21-3. Disclosures.

Pursuant to Section 40-8-100(G), a certified copy of the disclosures regarding fees to be placed in trust by the cemetery company must be sent to the board administrator.

21-4. Outer Burial Container.

Pursuant to Section 40-8-35, the cemetery must disclose to the purchaser of an outer burial container the identity of the manufacturer and the model of said container.

21-5. General Manager Requirements.

Pursuant to Section 40-8-90(A) (1)(d), the general manager of a cemetery must be a South Carolina resident and must have had at least two (2) years experience in perpetual care cemetery business.

21-6. Correct Documentation Required for Cemetery Application.

Pursuant to Section 40-8-90(A) (2), the ninety (90) day requirement for the grant or refusal of authority to organize a cemetery begins after all correct documentation, along with a completed application for organization of a cemetery, is received.

21-7. Records Retention.

(A) Pursuant to Section 40-8-100(A), all records maintained by cemeteries must be maintained on location and be available for inspection at all times. The Board may permit cemeteries with multiple locations to maintain records at its primary in-state location.

(B) Pursuant to Section 40-8-110(H), if an individual acting on the board’s behalf must be sent to inspect/audit the records of the cemetery company, the cemetery is responsible for reasonable and necessary costs incurred.

21-8. Death of Cemetery Owner.

In case of the death of a cemetery owner, if the cemetery is inherited, a probate judge must appoint a qualified manager for the cemetery. Once probate is finalized, the manager must apply for a new license within sixty (60) days. (Section 40-8-90(B))

21-9. Policies and Procedures; Vendors.

(A) Pursuant to Section 40-8-100(H), policies and procedures must be approved by the board before being put into effect.

(B) Pursuant to Section 40-8-100(D), a policy or procedure may not be promulgated which unreasonably charges outside vendors more than the cemetery would charge for such services.

21-10. Meetings.

The Cemetery Board shall meet at least semiannually, and more often upon the call of the Chairman or upon written request of at least four members of the board.

SUBARTICLE 2

CARE AND MAINTENANCE TRUST FUNDS

21-11. Care and Maintenance Trust Funds.

(A) Pursuant to Section 40-8-110(C), each time a space is sold, the cemetery must deposit the amount which the cemetery charges for perpetual care into the Care and Maintenance Trust Fund. The trustee must furnish to the board, within ninety (90) days of the end of the calendar year, an annual summary of the beginning balance, all deposits, all withdrawals, and the ending balance of the trust account.

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(B) Pursuant to Section 40-8-110(C), the cemetery must also trust the greater of 0.08 cents per square inch or the actual amount charged for the long term care of a marker. Dates of payment and deposit must be put in writing and recorded.

(C) Pursuant to Section 40-8-110(E), capital gains are not net income, but growth in the corpus. Net income is the current year's earnings of interest and dividends.

21-12. Report of Deposits.

The Cemetery Board requires a report of deposits, earnings, and withdrawals to the Care and Maintenance Trust Fund to be completed and mailed to the Cemetery Board annually on forms provided by the Cemetery Board.

21-13. Location of Fund.

No person will be allowed to withdraw or transfer all or any portion of the corpus of the care and maintenance trust funds of any cemetery to any depository authorized to conduct business in South Carolina. The board will not approve the creation of a new care and maintenance trust fund as called for under Code Section 40-8-110 unless the same is deposited with a trust institution authorized to conduct business in South Carolina.

21-14. Transfer of Funds.

Any cemetery which desires to transfer its care and maintenance trust funds must make written request to the Cemetery Board and provide the Cemetery Board with a copy of the new proposed Care and Maintenance Trust Fund Agreement. The Cemetery Board will then notify the cemetery, in writing, after study of the request and proposal, either authority for the transfer or the denial of the request.

21-15. Commingling of Deposits.

The trustees of care and maintenance trust funds may commingle the deposits in all such trusts for purposes of the management and investment of the funds.

SUBARTICLE 3

MERCHANDISE FUNDS

21-16. Reports of Deposits.

The Cemetery Board requires a report of deposits, earnings, and withdrawals to the Merchandise Fund to be completed and mailed to the Cemetery Board annually on forms provided by the Cemetery Board.

Pursuant to Section 40-8-110(F)(1), whether or not a merchandise account exists, the cemetery must annually report the existence of merchandise account information, including balances, if any.

21-17. Location of Fund.

The Cemetery Board will not approve the creation of a merchandise fund unless the same is deposited with a financial institution authorized to conduct business in South Carolina.

21-18. Deposits to Merchandise Fund.

No person shall offer to enter into, or enter into a contract, for the sale of a memorial, mausoleum crypt, or other cemetery merchandise that is to be used in connection with the interment of a deceased human being, wherein the memorial or other cemetery merchandise is not delivered or the mausoleum crypt is not constructed until the death, or at some future time, of the person for whose interment such personal property is to be furnished, except as provided below:

(a) Any person entering into any such contract as the seller shall deposit into a merchandise fund, established for that purpose with a financial institution authorized to conduct business in South Carolina, one hundred (100) percent of the actual cost, at time of deposit, of the personal property sold for future need.

(b) The deposit required to be made into such merchandise fund shall be made within sixty (60) days after the seller has received final payment of the purchase price provided for under such contract.

21-19. Withdrawals from Merchandise Fund.

The funds held shall remain intact, together with all interest accrued thereon, except as provided herein, until the memorial or other cemetery merchandise has been delivered.

(a) The costs for administering the merchandise fund may be paid from, and only from, the income earned by the fund or by the cemetery company.

(b) For the purpose of Code Section 40-8-110, only (1) the installation of said merchandise, meaning the placement of the marker, in the cemetery, or (2) the aboveground warehousing of said merchandise on the cemetery property, or (3) the deposit of one hundred (100) percent of the cost of said merchandise in the Merchandise Fund, or (4) another type of aboveground only warehousing of said merchandise that has prior approval of the Cemetery Board, will constitute the delivery of said merchandise. This regulation does not apply to lawn crypts.

SUBARTICLE 4

PRIVATE AND COMMUNITY MAUSOLEUMS AND BELOW GROUND CRYPTS FUNDS

21-20. Reports.

The Cemetery Board requires that a cemetery pre-file with the board, before it begins, a pre-construction mausoleum sales program, and that a report of deposits to the Pre-Construction Mausoleum Fund be completed and mailed to the Cemetery Board annually on forms provided by the Cemetery Board.

21-21. Deposits to Fund.

(a) Any person who enters into a contract for the sale of a space in a private family mausoleum or community mausoleum or bank of belowground crypts prior to the completed construction thereof shall establish a fund entitled "Pre-Construction Fund" with a financial institution authorized to conduct business in South Carolina. The pre-construction fund shall be administered and operated in the same manner as the merchandise fund provided for in Code Section 40-8-110(F), and shall be exclusive of the merchandise fund or other funds that may be required by law.

(b) The seller's cost of a space in a private or a community mausoleum or in a bank of belowground crypts shall be determined by the contract and plans between the cemetery company and the building contractor.

(c) When any memorial, mausoleum crypt, or other merchandise is sold in advance of need and not installed until a later date, one hundred (100) percent of actual cost to the seller at time of deposit must be placed in a financial institution within sixty (60) days after completion of the contract, with interest to accrue, and may not be withdrawn without the consent of the purchaser until the time of delivery or construction.

21-22. Withdrawals from Pre-Construction Fund.

The seller shall be entitled to withdraw all funds from the pre-construction fund after the Cemetery Board is satisfied that construction has been completed; provided, however, during construction of the mausoleum or bank of belowground crypts, the Cemetery Board shall authorize a specific percentage of the funds to be withdrawn when the cemetery company certifies that at least an equivalent percentage of construction has been completed.

SUBARTICLE 5

LICENSING

21-23. Application and Filing Fee.

Any legal entity wishing to establish and operate a cemetery company, as defined in Code Section 40-8-30(6) must first obtain a license from the Cemetery Board. The legal entity shall file written application with the Cemetery Board. All applicable fees must be paid with the application.

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21-24. Cemetery Company License.

Upon proper application for a Cemetery Company License, and where it appears after investigation that the criteria required by applicable laws have been met, the Cemetery Board shall issue said license to the applicant, provided that the required license fee has been paid.

21-25. Change of Control.

Any entity wishing to purchase or acquire control of an existing cemetery company shall first make written application to the Cemetery Board on the board's Application for Change of Control. This form provides space for the name and address of the present and the proposed new owner, along with the name of the corporation and the name of the cemetery. This form is available from the office of the Cemetery Board. The board also requires the following, including but not limited to:

- (1) an examination be made to establish compliance with all funding requirements;
- (2) a certificate signed by the purchaser assuming liabilities of the existing cemetery company;
- (3) the financial structure of the existing cemetery company;
- (4) a financial statement of the purchaser.

21-26. Cemetery Rules and Regulations.

Each cemetery shall submit to the Cemetery Board a copy of its rules and regulations for approval. After the Cemetery Board has approved the rules and regulations for a licensed cemetery, the cemetery, must before modifying, changing, or amending said rules and regulations, submit proposed amendments or changes to the Cemetery Board for approval.

21-27. Nature Preserve Exemption Requirements.

Prior approval of the Board is required for all licensing exemptions granted for a nature preserve cemetery. The proposed nature preserve cemetery must be duly licensed and approved by all other applicable licensing authorities. Perpetual care as it is defined in the South Carolina Perpetual Care Cemetery Act may not be offered. Burial or scattering of cremated remains is permissible.

- (a) Vaults are not permitted.
- (b) Decedents are not to have been embalmed, or embalmed only with approved nontoxic chemicals.
- (c) Burial containers are to be limited to those made from materials that are nontoxic/nonhazardous and natural/plant derived, with shrouds allowed.
- (d) An Integrated Pest Management (IPM) program must be implemented, so as to prohibit the use of pesticide other than in instances where it is required to eradicate invasive species.
- (e) Land criteria: A Nature Preserve Cemetery must:
 - (i) Be contiguous to, or in a position to augment the conservation goals of an ecologically significant park, wildlife corridor, critical habitat area, or permanently protected open space; or (with appropriate management practices) be large enough on its own to be considered a landscape-level conservation effort;
 - (ii) Operate only in areas of the property where burial would not degrade the land and the surrounding landscape;
 - (iii) Be owned by, or operated in conjunction with a government agency or a nonprofit conservation organization that is recognized by the Internal Revenue Service as a public charity and in business for at least five years (the "conservation partner"). The conservation partner must have legally binding responsibility for perpetual stewardship of the land, both in the operational facility and in the conservation area(s), and must set all conservation policies; and
 - (iv) Utilize a deed restriction (if operator is a nonprofit conservation organization that has been established for at least five years) or a conservation easement that incorporates these standards. A conservation easement must also conform to all provisions of the Internal Revenue Code Section 170(h) and provide for public access to and through the site, particularly to connect it to adjoining protected open space, to the extent public use of the property is compatible with ecological goals.

(f) Start-up criteria. A Nature Preserve Cemetery must:

- (i) Conduct a biological evaluation including baseline information on existing geology, hydrology, soils, and topography, and on both existing and potential vegetation and wildlife. This evaluation must be used

by the facility designers and operators to ensure that existing site resources are not degraded, and that the potential for re-introducing native species is given appropriate consideration in design and planning;

(ii) Conduct an evaluation to determine potential erosion issues and measures necessary to prevent them;

(iii) Develop a plan for limiting visitation to sensitive areas as well as policies for families who choose “back country” or “off trail” burial;

(iv) Compile a plant list for use as memorial features for every area or “zone” of property where burial will take place, and a list of plants appropriate for use in restoration and/or preservation of native vegetation.

(v) Develop a plan for limiting the types, sizes, visibility of memorial markers/features to preserve or restore naturalistic vistas.

(g) Operations and management criteria. A Nature Preserve Cemetery must:

(i) Develop a plan for using native plants and for protecting or rescuing locally rare plants;

(ii) Establish an endowment fund to ensure the long term maintenance of the land and its trail system by setting aside at least five (5) percent of all burial plot sales;

(iii) Utilize excavation and burial techniques/technology that minimizes impact on surrounding land, and protects native plant diversity.

(iv) Develop a policy for dealing with unauthorized grave decoration and landscaping.

(v) Develop a “systems and operations” manual to be given to all staff members, contractors and volunteers that communicates the above criteria and the goals and methods of meeting them.

Fiscal Impact Statement:

There will be no additional cost incurred by the State or any political subdivision.

Statement of Rationale:

The regulations are amended to conform to 2002 Act 322.

Document No. 4252

RESIDENTIAL BUILDERS COMMISSION

CHAPTER 106

Statutory Authority: 1976 Code Sections 40-1-70, 40-59-70, 40-59-220, and 40-59-610

106-2. Residential Specialty Contractors License.

Synopsis:

To satisfy the requirements of licensure for residential builders, Regulation 106-2 is updated in conformance with the current Residential Builders Practice Act.

The Notice of Drafting was published in the *State Register* on November 25, 2011.

Instructions:

The following section of Chapter 106 is modified as provided below. All other items and sections remain unchanged.

Text:

106-2. Residential Specialty Contractors License.

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As provided by Section 40-59-220, the Commission finds that the following residential specialty classifications must be licensed after examination satisfactorily demonstrating that an applicant is qualified to engage in a residential specialty contractor classification. When the cost of an undertaking to be performed by a licensed residential specialty contractor exceeds five thousand dollars, the licensee must obtain an executed surety bond in an amount approved by the commission not less than ten thousand dollars.

a. Heating and Air Conditioning Installer and Repairers, effective July 1, 2004, except that applicants who have lawfully engaged in this classification in good standing for not less than two years prior to July 1, 2004, shall be issued a license without examination upon surrender of the proper registration card and compliance with all other requirements for licensure.

b. Plumbers, effective July 1, 2004, except that applicants who have lawfully engaged in this classification in good standing for not less than two years prior to July 1, 2004, shall be issued a license without examination upon surrender of the proper registration card and compliance with all other requirements for licensure.

c. Electricians, effective July 1, 2004, except that applicants who have lawfully engaged in this classification in good standing for not less than two years prior to July 1, 2004, shall be issued a license without examination upon surrender of the proper registration card and compliance with all other requirements for licensure.

Fiscal Impact Statement:

There will be no cost incurred by the State or any of its political subdivisions.

Statement of Rationale:

This regulation is updated in conformance with the current Residential Builders Practice Act.

Document No. 4314

DEPARTMENT OF TRANSPORTATION

CHAPTER 63

Statutory Authority: 1976 Code Sections 57-25-800 through 57-25-830

63-339. Agritourism and Tourism-Oriented Directional Signing

Synopsis:

The Department of Transportation proposes to add Regulation 63-339 to implement and administer the statewide Agritourism and Tourism-Oriented Signage Program.

A Notice of Drafting was published in the *State Register* on October 26, 2012.

Instructions:

Print the regulation in accordance with the directions given below to reflect new regulation.

63-339. Print as shown below.

Text:

63-339. Agritourism and Tourism-Oriented Directional Signing.

A. Introduction. The South Carolina Department of Transportation has developed this program for the installation of directional signs on the state highway system for agritourism and tourism-oriented facilities or activities located on rural, conventional highways.

B. Purpose. The purpose of this program is:

- (1) To provide motorist with business identification and directional information for agritourism and tourism-oriented facilities or activities for eligible participants;
- (2) To eliminate illegal outdoor advertising signs as required by the South Carolina Highway Advertising Control Act. 57-25-110, et seq.

C. Definitions

- (1) 'Department' means the South Carolina Department of Transportation or its authorized agents.
- (2) 'Highway' means a highway on the state highway system as defined under 57-5-10, constructed to at-grade intersections standards and without control-of-access.
- (3) 'Agritourism activity' means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment or educational purposes, to participate in rural activities.
- (4) 'Rural activity' means wildlife management, farming and ranching, or associated historic, scientific research, cultural, harvest-your-own and natural activities and attractions.
- (5) 'Rural area' means an area outside the limits of an incorporated municipality having a population of 5,000 or more according to the most recent decennial census of the United States Bureau of Census.
- (6) 'Agritourism-oriented facility' means a location where an agritourism activity is carried out by an agritourism professional or other agricultural facility meeting the criteria established in these regulations.
- (7) 'Agritourism professional' means any person who is engaged in the business of providing one or more agritourism activities, whether or not for compensation.
- (8) 'Tourism-oriented facility' means a location where the facility derives greater than 50% of its income or total visitors during a normal business season from road users not residing in the area of the facility and other criteria established in these regulations.
- (9) 'Rest room facilities' mean separate facilities for men and women, to include sink and toilet, and available to all motorists at no charge.
- (10) 'Drinking water' means a water fountain and/or cups of water provided to all motorists at no charge.
- (11) 'Public telephone' means a coin operated telephone available to all motorists. Private or business phones may be allowed if the business is unable to obtain a coin operated telephone so long as its use is provided to motorists.
- (12) 'Driveway access' means a vehicle entrance, built in compliance with state and local standards and regulations, for use by the public that provides access to an agritourism or tourism-oriented activity.
- (13) 'MUTCD' means the Federal Highway Administration's Manual on Uniform Traffic Control Devices as adopted under 56-5-920.

D. Agritourism and Tourism Oriented Directional Sign Design

- (1) A sign assembly shall be comprised of one or more individual business panels and the required sign supports. Each business panel shall be limited to information for one eligible business, service, activity or facility.
- (2) Business panels shall be rectangular in shape and shall have a white legend and border on a blue background.
- (3) Legend on business panels shall be limited to the identification and directional information for an eligible participant. Advertising shall not be allowed as part of the legend. An official program logo developed by the Department of Agriculture may be included and located adjacent to the identification information of agritourism-oriented facilities. An official program logo developed by the Department of Parks, Recreation and Tourism may be included and located adjacent to the identification information for tourism-oriented facilities.
- (4) Each business sign panel shall be limited to two lines of legend, the official program logo, the distance, in miles rounded to the nearest mile, to the business from an intersection and a directional arrow.
- (5) Directional arrows pointing to the left or straight up should be located at the extreme left of the business panel. Directional arrows pointing to the right should be located to the extreme right of the business panel. The official program logo, if used, shall be to the immediate left of the business name. The mileage to the business shall be located between the directional arrow and the official program logo or business name.
- (6) All sign panels shall be fabricated from materials which conform to the Department's latest specifications for sign blanks and sign sheeting.
- (7) Business panels shall not contain a corporate trademark, logo, symbol, or slogan.

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(8) Sign assemblies shall not be illuminated internally or externally.

E. Size and Style of Sign Legend and Elements

(1) All letters and numbers shall be upper case and shall have a height of six (6) inches with the exception of the letters on the official program logo. Letters on the official program logo shall be proportional to the size of the logo.

(2) All letters and numbers shall be standard highway series D or C font.

(3) All letter spacing shall be in accordance with the Federal Highway Administration's Standard Highway Signs and Markings book, latest edition.

(4) The official program logo shall have a maximum size of twelve (12) inches by twelve (12) inches for a square design or twelve (12) inch diameter for a circular design.

(5) The width of the border shall be three quarters (3/4) of an inch.

(6) The radius of the border shall be one and one half (1½) inches.

(7) The size of the arrow shall be nine (9) inches wide by six (6) inches tall where the arrow is measured along the arrow's axis (shaft) in a horizontal orientation.

F. Arrangement and Size of Sign Assemblies

(1) Each individual business panel will have a maximum height of eighteen (18) inches. The number of business sign panels comprising a sign assembly shall not exceed four (4), for a maximum sign assembly height of seventy-two (72) inches.

(2) The number of sign assemblies approaching an intersection should not exceed three, one for destinations straight ahead, one for destinations to the right and one for destinations to the left.

(3) At intersections where four or fewer businesses are displayed, the straight ahead, left-turn and right turn business panels may be combined on the same sign assembly. Otherwise, the sign panels for straight ahead, left-turn and right turn destinations should be installed on separate sign assemblies.

(4) The left-turn sign assembly should be located farthest from the intersection, then the right-turn destination sign, with the straight-through destination sign located closest to the intersection.

(5) When straight-through, left-turn and right-turn panels are combined to form a single sign assembly, the order of the panels from top to bottom shall be straight-through, left-turn, right-turn.

(6) When multiple business panels in the same direction comprise a sign assembly, the order of panels from top to bottom shall be based on distance from the intersection, with the closest destination occupying the top position.

(7) Where the number of businesses wishing to participate in the program exceeds the number of spaces available, the closest businesses will qualify to participate with the following exception: if the closest twelve (12) businesses are from one category (agritourism or tourism), the oversight committee will have the discretion to place up to four (4) businesses from the other category in the sequence of sign assemblies to promote program diversity.

(8) The distances used in this determination will be measured from the driveway entrance of the business to the initial intersection where the first directional signs are to be installed.

(9) Pre-notification intersection signs will not be permitted under this program.

G. Sign Assembly Locations and Placement at Intersections

(1) Businesses shall be signed from the last point of turn from the nearest rural primary highway on the state highway system.

(2) Sign assemblies shall be installed in a manner so as not to conflict or obscure the view of existing regulatory, warning, or guide signing in place at an intersection.

(3) Sign assemblies shall be located at least 200 feet prior to an intersection. If more than one assembly is to be installed, the assemblies shall be spaced at least 200 feet apart and at least 200 feet from any other traffic control device.

(4) The signs shall be installed in compliance with the requirements of the MUTCD. For rural roadways where no sidewalk is present, the signs should be erected within the public right-of-way, but no less than six (6) feet horizontally from the edge of pavement. The vertical distance from the edge of pavement to the bottom of the sign assembly (mounting height) should be a minimum of five (5) feet

(5) For roadways having curb and gutter and sidewalk, the signs should be erected no less than two (2) feet horizontally from the face of curb. In this situation, the mounting height should be no less than seven (7) feet.

(6) Sign assemblies shall be installed with a lateral offset from the edge of pavement equal to or greater than existing signs.

H. Criteria for Selection of Agritourism-oriented Facility

- (1) To be eligible for a business panel, an agritourism-oriented facility shall:
- (a) be located in a rural area;
 - (b) be located on or accessible from a paved rural highway on the state highway system;
 - (c) offer agricultural activities related to production, harvest, processing, preservation, management, cultural, historical, recreational, educational, entertainment, and commercial activities, services and/or products to the general public;
 - (d) be unique and local in nature and not part of a chain of businesses having a common name under common ownership and management or under a franchise arrangement;
 - (e) have a permanent location and the agritourism-oriented activity shall be associated with a permanent building:
 - 1. constructed principally of brick, concrete block, stone, concrete, metal, or wood, or some combination of these materials; or
 - 2. from a mobile home or trailer which the applicant can prove is considered part of the real estate and taxed accordingly;
 - (f) be open to the public on a regular schedule and have at least one employee attendant at the activity site, performing work and available to the public for at least five (5) days per week, for at least six (6) hours per day (holidays excepted), for at least forty-eight (48) weeks per year; provided, however, that an agricultural operation open on a seasonal basis may be eligible for participation in the program provided it is open for business on a regular schedule with at least one employee attendant at the activity site for at least five (5) days per week, for at least six (6) hours per day (holidays excepted), for at least three (3) months out of the year;
 - (g) post its hours and days of operation at or near the main entrance so that they are visible to the public during closed as well as open hours;
 - (h) have electricity, public telephone or telephone with published phone number and answered at the activity, excluding call forwarding systems, running water, restrooms, drinking water, and adequate heating and cooling; provided, however, that this requirement may not apply to seasonal agricultural activities, services or products where it is not practical;
 - (i) if any general admission is charged, the costs of admission shall be clearly displayed to the prospective visitors at the entrance to the business;
 - (j) be located within five (5) miles of the intersecting route with a rural state primary highway where the program sign is to be erected;
 - (k) be an agritourism business qualified to participate in the SC Department of Agriculture promotional programs;
 - (l) have on-site signage that is visible from the fronting, paved rural highway;
 - (m) have driveway access from a paved public highway;
 - (n) provide off street parking accommodations with an exit having sufficient sight distance for motorists to safely enter the fronting roadway;
 - (o) be open to the general public and not by appointment or reservation only;
 - (p) to qualify a business shall list its location, operating season and hours, contact information with the Department of Agriculture and have one of the following:
 - 1. a reception structure;
 - 2. a controlled gate;
 - 3. a staffed reception and orientation point; or
 - 4. permanent interpretation panels or displays.
- (2) To be eligible for the program, if an agritourism-oriented facility is located on a local paved road and more than one intersection from the nearest state route, the facility shall provide written documentation to ensure that the local government will provide similar directional signs on the right of way of the local system sufficient to guide motorist to the business.

I. Criteria for Selection of Qualified Tourism-oriented Facilities

- (1) To be eligible for a business panel, a tourism-oriented facility shall:

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- (a) be located in a rural area;
- (b) be limited to the following services: gas, food, lodging, camping, educational, cultural, recreational, and entertainment activities, or a unique or unusual commercial or non-profit activity;
- (c) be a business or facility that derives greater than 50% of its income or total visitors during a normal business season from road users not residing in the area of the business or facility;
- (d) meet current compliance with all applicable laws concerning the provision of public accommodation without regard to race, religion, color, age, sex, national origin or lifestyle or laws concerning the licensing and approval of public facilities;
- (e) adhere to the safety standards and procedures that apply to the industry to which the operation belongs;
- (f) be local in nature, and represent the unique cultural, historical, natural or recreational resources of the area and not be part of a chain of businesses having a common name under common ownership and management or under a franchise arrangement;
- (g) be located within five (5) miles of an intersection with a rural primary route on the state highway system where the program sign is to be erected;
- (h) have on-site signage that is visible from the fronting, paved rural highway ;
- (i) be ADA compliant;
- (j) have available the following public services: electricity, public restrooms, drinking water, public telephones or telephone with published phone number and answered at the activity, excluding call forwarding systems, permanent flooring other than dirt, gravel, sand, etc., and adequate heating and cooling;
- (k) post hours and days of operation at or near the main entrance so that they are visible to the public during closed as well as open hours;
- (l) be open to the general public and not by appointment or reservation only;
- (m) unless otherwise stated, be open to the public and have at least one employee attendant at the activity site, performing work and available to the public for at least eight (8) hours a day, for at least six (6) days a week, for a minimum of six (6) months a year;
- (n) to qualify a business shall market its location, operating season and hours, contact information and have one of the following:
 - 1. a reception structure;
 - 2. a controlled gate;
 - 3. a staffed reception and orientation point; or
 - 4. permanent interpretation panels or displays.
- (o) be willing to provide visitor information for surrounding area and region;
- (p) have a driveway access from a paved public highway;
- (q) provide off street parking accommodations with an exit having sufficient sight distance for motorists to safely enter the fronting roadway; and
- (r) for bed and breakfast lodging, provide a minimum of four (4) sleeping units complete with private bath facilities for each sleeping unit and offer one or more meals to guest in a dining area separate from the sleeping rooms and provide lodging services for at least five (5) nights per week.

(2) To be eligible for the program, if a tourism-oriented facility is located on a local paved road and more than one intersection from the nearest state route, the facility shall provide written documentation to ensure that the local government will provide similar directional signs on the right of way of the local system sufficient to guide motorist to the business.

J. Fees, Installation and Maintenance

(1) The cost to the business for participation in the agritourism and tourism-oriented directional sign program shall be determined by the Department. Fees will include a nonrefundable initial participation fee, manufacture fee, installation fee and annual participation fee for each business panel installed. Additional fees shall be assessed to cover/uncover or remove/reinstall signs based on seasonal availability of the business or facility, to maintain signs, or to replace damaged, deteriorated or missing signs.

(2) The Department shall be responsible for all fabrication, installation, routine maintenance, removal and covering of business panels.

(3) The Department shall not be responsible for any damage, deterioration or loss of any business panel.

(4) The Department reserves the right to cover or remove any or all business signs during maintenance or construction operations or for research studies, or whenever deemed by the Department to be in the best interest of the Department or the traveling public without advance notice.

K. Application Procedures

(1) The qualifying business shall submit an application to the Department. By submitting an application, the applicant is certifying that all requirements outlined in these regulations have been met. Applications must be submitted on the form available on the Department's website. The Department will prescribe the format and content of standard application and agreement forms to be used in the administration of this program.

(2) The application shall include the following documents:

(a) Written affidavit by the business of its conformity with all applicable laws concerning the provision of public accommodations without regard to race, religion, color or national origin;

(b) Written certification from the Department of Parks, Recreation and Tourism for tourism-oriented facilities and/or from the Department of Agriculture for agritourism-oriented facilities, that the facilities meet the qualifying criteria set forth above; and

(c) If a business is located on a local paved road and more than one intersection from the nearest state route, the business shall include with its application written documentation from the local government that similar additional signs will be provided on the right of way of the local system sufficient to guide motorist to the business.

If the above information is not included with the application, the application will be returned to the applicant.

(3) The Department will retain the applications until they are reviewed and approved by the oversight committee at its semiannual meetings. The oversight committee shall meet on the second Tuesdays in January and July to review applications received by the Department, or as soon thereafter as possible. The Chairman of the committee will arrange the meeting time and location. The approval for each application will be recorded by a majority vote of the members present at the meeting. The Chairman will cast a vote only in the case to break a tie.

(4) Applicants will be notified in writing of being approved or disapproved from program participation. If disapproved, reasons for disapproval will be clearly stated. In the event the application is disapproved, the applicant may request a contested case hearing pursuant to S.C. Code Section 1-23-600 and the rules of procedure for the Administration Law Court.

(5) Once noted deficiencies have been corrected, disapproved applications may resubmitted for consideration at the next oversight committee meeting.

(6) After a business has received approval of its application for participation in the program, a participation agreement, in accordance with these regulations, will be entered into between the Department and the business. Once the participation agreement has been signed by all parties and required fees paid, the Department will have the signs installed within sixty (60) days of receipt of site plan approval by Department. Failure of any check submitted to the Department to be honored upon presentation shall make the agreement void. The applicant may be required to resubmit the agreement and may thereafter be required to submit cash or a certified check for any participation fee or other fee payment.

(7) The Department reserves the right to terminate the program or any portion thereof by furnishing the business written notice of such intent not less than thirty (30) calendar days prior to such action.

(8) If a business, at any time, fails to comply with applicable laws or these rules and regulations, the Department will take the necessary actions to disqualify that business from further participation in the program, except when a business closing is due to damages sustained by fire, accident or similar causes and when the Department is notified in writing within ten (10) days of such closing. In such cases the business sign shall be removed or covered until the business is re-opened.

(9) A sign for a business may be covered by the Department if it is temporarily closed for a period not exceeding thirty (30) days.

(10) The Department shall remove the business panel if the business:

(a) ceases to exist;

(b) fails to pay the annual fee or other specified fees within thirty (30) calendar days of the due date as specified in the participation agreement with the Department;

(c) is temporarily closed for more than thirty (30) days (seasonal closure);

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(d) does not meet the requirements stated in these regulations and corrections are not made within thirty (30) days of notification; and

(e) is sold and the new business does not continue as an eligible business.

(11) If the business panel is removed due to the default of the business to perform within the terms of these regulations, the participation agreement between the business and the Department will be terminated. All funds paid to the Department will be forfeited.

(12) Any business that maintains any form of illegal outdoor advertising as determined by the South Carolina Highway Advertising Control Act shall be ineligible to participate in this program until such illegal advertising devices are removed.

(13) Sixty (60) days prior to the annual renewal date for each participating business sign, the Department shall send notification to the Department of Parks, Recreation and Tourism and Department of Agriculture requesting verification of continued eligibility of each business participating in the program. The Department of Parks, Recreation and Tourism and Department of Agriculture shall have twenty (20) days to submit a response to the Department verifying eligibility. Upon Department's receipt of the verification, the Department will send fee renewal notices to those businesses remaining eligible to participate in the program.

Fiscal Impact Statement:

There will be no increase costs incurred by the State or any of its political subdivisions.

Statement of Rationale:

The purpose of Regulation 63-339 is to create a regulation to implement and administer the statewide Agritourism and Tourism-Oriented Signage Program Purpose. Regulation 63-339 complies with the requirement in Act 224, ratified June 12, 2012, effective June 20, 2012, that the South Carolina Department of Transportation promulgate regulations to operate such program.

Document No. 4286

WORKERS' COMPENSATION COMMISSION

CHAPTER 67

Statutory Authority: 1976 Code Sections 42-3-30, 42-9-10 and 42-9-30(21)

67-1801. Mediation.

67-1802. Mediation Required with Certain Claims.

67-1803. Mediation Requested by Parties.

67-1804. Selection of Mediator and Required Schedule.

67-1805. Parties Represented.

67-1806. Mediation Communications Confidential.

67-1807. Expense of Mediation.

67-1808. Penalties.

67-1809. Forms Required Upon Completion.

Synopsis:

The South Carolina Workers' Compensation Commission proposes to amend Chapter 67 of the Regulations of South Carolina Workers' Compensation Commission by adding Article 18 for the purposes of establishing a defined mechanism to resolve disputes pursuant to Title 42 of the SC Code of Laws without the necessity of a hearing. The Notice of Drafting regarding this regulation was published on February 24, 2012 in the *State Register*. The language of the proposed regulations, notice of comment period and notice of public hearing was published in the *State Register* on April 27, 2012. The Commission held a public hearing regarding the new proposed regulations on May 29, 2012. On May 29, 2012, the Commission held a special business meeting and voted to approve the new mediation regulation.

Instructions:

Print the new article and new regulations as shown below.

Text:

ARTICLE 18

MEDIATION

67-1801. Mediation.

A. This mediation regulation is established to resolve disputes without the necessity of a hearing. The purpose is to afford a meaningful opportunity to the parties to achieve an efficient and a just resolution of their disputes in a timely and a cost-effective manner.

B. A Commissioner has the discretion to order mediation in any pending claim before the Commissioner and to select a duly qualified mediator.

(1) A Commissioner must retain jurisdiction of the claim solely for those issues being mediated.

(2) A Commissioner does not retain jurisdiction of the claim for the life of the claim, unless the Commissioner so chooses, only until those pending issues are resolved.

(3) A Commissioner's authority to order mediation in any pending claim is not limited by claims listed in Section 67-1802.

67-1802. Mediation Required with Certain Claims.

A. It is ordered by the Commission that claims arising under Section 42-9-10, or claiming permanent and total disability pursuant to Section 42-9-30 (21), occupational disease cases, third-party lien reduction claims, contested death claims, mental/mental injury claims, and cases of concurrent jurisdiction under the South Carolina Workers' Compensation Act and the Federal Longshore and Harbor Workers' Compensation Act must be mediated prior to a hearing.

(1) In contested death claims, a Commissioner must still make a finding that a good faith dependency investigation has been completed.

(2) Except for contested death claims, all claims listed in this section would apply only to claims where compensability of the accident is admitted by the employer/carrier.

(3) Claims involving multiple employees arising out of employment with the same Employer, whether or not compensability has been admitted, shall be subject to a scheduling order and shall be mediated prior to a hearing. Participation in mediation in no way constitutes an admission of compensability at any subsequent proceeding.

(4) Unless an unrepresented claimant requests that the claimant's case be mediated, the Commission shall enter an order dispensing with mediation.

67-1803. Mediation Requested by Parties.

The parties may request mediation by the proper submission of a Form 21, Form 50, Form 51, or the response to the Form 21, indicating a request for mediation. Except as provided in section 67-1802 A, either party may object to mediation by the proper submission of the Form 21, Form 50, or the response to the Form 21. If the

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parties do not agree to mediation, pursuant to this section, then the case shall be set by the Judicial Department in the normal course of the docket scheduling.

67-1804. Selection of Mediator and Required Schedule.

A. The parties may consent to use any mediator who is duly qualified. The mediator must be certified as a mediator per the certification process established by the South Carolina Bar Association.

B. The parties must select a mediator within ten days of the filing of the Form 51 or the response to the Form 21, and must promptly notify the Commission of the mediator and proposed mediation date.

C. The mediation must be completed within sixty days of the filing of the Form 51 or the response to the Form 21, unless otherwise agreed to by the parties. If the mediation is not completed within the sixty day timeframe then the case shall be set by the Judicial Department in the normal course of the docket scheduling.

D. If the parties cannot agree on a mediator, the Commission shall appoint a duly qualified mediator for them.

67-1805. Parties Represented.

In addition to their attorney being present, each party shall provide a representative, who shall attend the mediation in person or via telephone. The representative shall have authority to enter into negotiations, in good faith, to resolve the issues in dispute. If the representative attends via telephone, they shall be available by telephone for the duration of the mediation. Reasonable notice shall be provided to the opposing party concerning attendance via telephone, prior to the mediation. This regulation does not prevent a claimant from proceeding pro se.

67-1806. Mediation Communications Confidential.

A. All communications and statements that take place within the context of mediation shall be confidential and not subject to disclosure. Such communications or statements shall not be disclosed by any mediator, party, attorney, or attendee and may not be used as evidence in any proceeding. An executed agreement resulting from mediation is not subject to the confidentiality requirements described above.

B. Neither the mediator nor any third-party observer may be subpoenaed or otherwise required to testify concerning a mediation or settlement negotiation in any proceeding. The mediator's notes shall not be placed in the Commission's file, shall not be subject to discovery, and shall not be used as evidence in any proceeding.

67-1807. Expense of Mediation.

The parties shall share the cost of mediation equally, unless otherwise agreed by the parties, or as otherwise ordered by the Commission.

67-1808. Penalties.

Any party who refuses or neglects to act in good faith during the mediation may be subject to a fine not to exceed the actual cost of the mediation. Any party who believes this provision has been violated may file a Motion for a Rule to Show Cause before the jurisdictional Commissioner for purposes of assessing fines and penalties. The parties shall have the right of review and appeal as in other cases.

67-1809. Forms Required Upon Completion.

A Form 70 shall be filed by the Mediator with the Judicial Department at the conclusion of the mediation. A Form 70 shall not become a part of the Commission's file and will solely be used for tracking purposes.

Fiscal Impact Statement:

The fiscal impact of the proposed changes to this regulation is \$0.

Statement of Rationale:

The Commission is proposing a new regulation to establish a defined mechanism to resolve disputes without the necessity of a hearing. The goal is not to mandate mediation of all cases, but to afford a meaningful opportunity to the parties to achieve an efficient and just resolution of their disputes in a timely and a cost-effective manner.